

FACE SHEET

87-0805-03
RDB #0187-06
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

AUG 05 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

SEP 01 1987

Office of Administrative Law
For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

L. S. McHugh

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: August 3, 1987

FILED
In the office of the Secretary of State
of the State of California

SEP 01 1987

At 4:40 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Arthur Bate*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

SECTIONS REPEALED: 11-900, 11-901, 11-902, 11-903, 11-904.1, .4, and .51

11-601 and 11-603

b. The following sections listed in 3a contain modifications to the text originally made available to the public: N/A

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☐ No ☒ Yes, if yes, give date statement was submitted to OAL August 1, 1983

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

April 3, 1987

August 3, 1987

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Repeal MPP Section 11-601:

11-601 GENERAL STATEMENT

11-601

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Pursuant to Public Law 93-647 as amended by Public Law 94-88, the Department of Benefit Payments has been designated the single state agency to administer the Child Support Enforcement Program (Title IV-D of the Social Security Act). Regulations governing the functions of the county welfare department with respect to the child support program are to be found in Division 43 of the EAS Manual. A Plan of Cooperation has been developed and executed with each county which delegates certain functions of the program to local District Attorney offices. The purpose of such plan is to establish responsibilities and guidelines for an effective program for the securing of financial support for minor children, including, but not limited to, identification and location of absent parents, determination of paternity of children born out of wedlock, determination of the absent parents' ability to support their minor children, establishment and enforcement of support obligations.

Authority Cited: Sections 10553 and 11475, Welfare and Institutions Code.

Reference: Government Code Section 11349; Sections 10554 and 11475(b) of the Welfare and Institutions Code.

Adopt Handbook Section 11-601 to read:

11-601 GENERAL STATEMENT

11-601

Pursuant to Public Law 93-647 as amended by Public Law 94-88, the Department of Social Services has been designated the single state agency to administer the Child Support Enforcement Program (Title IV-D of the Social Security Act). Regulations governing the functions of the county welfare department with respect to the child support program are to be found in Division 43 of the EAS Manual. A Plan of Cooperation has been developed and executed with each county which delegates certain functions of the program to local district attorney offices. The purpose of such plan is to establish responsibilities and guidelines for an effective program for the securing of financial support, including, but not limited to, identification and location of absent parents, determination of paternity of children born out of wedlock, determination of the absent parents' ability to support their minor children, establishment and enforcement of child support, and enforcement of existing spousal support obligations when enforced in conjunction with a child support obligation.

Repeal MPP Section 11-603:

11-603 PLAN OF COOPERATION (STATE)

11-603

The Plan of Cooperation mentioned above generally contain the following provisions regarding the responsibilities of the State Department of Benefit Payments:

- .1 To ensure that the State Plan is in operation on a statewide basis in accordance with equitable standards of administration required by state and federal law that are mandatory throughout the state, and to ensure that the Plan is continuously in operation in all political subdivisions of the State and in all appropriate agencies.
- .2 To develop and utilize methods for informing staff and all appropriate county agencies of state policies, standards, and procedures.
- .3 To ensure that county welfare departments provide all reasonable assistance necessary to permit district attorneys to meet state and federal standards.
- .4 To conduct regular planned examinations and evaluation of operations in local offices by regularly assigned state staff, including regular visits by such staff; and through reports and proposals for corrective action as necessary.
- .5 To ensure that the State Plan is amended whenever necessary to reflect new or revised federal statutes or regulations; or material change in any phase of state law, organization, policy or state or local agency operations.
- .6 To assist district attorneys in claiming incentive payments and federal matching funds.
- .7 To allocate and distribute incentive payments among jurisdictions as may be required where more than one jurisdiction within the state, or where more than one state, is involved in the enforcement of collection.
- .8 To make available a list of laboratories within the state which perform legally and medically acceptable tests, including blood tests, which tend to identify the father or exclude the alleged father from paternity.

The responsibilities of the District Attorneys are also contained in the Plan of Cooperation. A model plan which is generally followed is found in Appendix II of this chapter. Modifications

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may be made in individual county plans to deal with specific county situations and procedures.

Authority Cited: Sections 10553 and 11475, Welfare and Institutions Code.

Reference: Government Code Section 11349; Sections 10554 and 11475(b) of the Welfare and Institutions Code.

Adopt Handbook Section 11-603 to read:

11-603 PLAN OF COOPERATION (STATE)

11-603

The Plan of Cooperation mentioned above generally contain the following provisions regarding the responsibilities of the State Department of Social Services.

- .1 To ensure that the State Plan is in operation on a statewide basis in accordance with equitable standards of administration required by state and federal law that are mandatory throughout the state, and to ensure that the Plan is continuously in operation in all political subdivisions of the State and in all appropriate agencies.
- .2 To develop and utilize methods for informing staff and all appropriate county agencies of state policies, standards, and procedures.
- .3 To ensure that county welfare departments provide all reasonable assistance necessary to permit district attorneys to meet state and federal standards.
- .4 To conduct regular planned examinations and evaluations of operations in local offices by regularly assigned state staff, including regular visits by such staff; and through reports and proposals for corrective action as necessary.
- .5 To ensure that the State Plan is amended whenever necessary to reflect new or revised federal statutes or regulations; or material change in any phase of state law, organization, policy or state or local agency operations.
- .6 To establish systems and procedures to facilitate district attorneys claiming of incentive payments and federal matching funds.
- .7 To allocate and distribute incentive payments among jurisdictions as may be required where more than one jurisdiction within the state is involved in the enforcement of collection.
- .8 To make available a list of laboratories within the state which perform legally and medically acceptable tests, including blood tests, which tend to identify the father or exclude the alleged father from paternity.

The responsibilities of the district attorneys are also contained in the Plan of Cooperation. A model plan which is generally

followed is found in Appendix I of this chapter. Modifications may be made in individual county plans to deal with specific county situations and procedures.

Amend Sections 11-900 and 11-901 to read:

11-900	COMPLIANCE WITH STATE PLAN FOR <u>DETERMINING</u> <u>PATERNITY, SECURING CHILD SUPPORT, AND</u> <u>DETERMINING PATERNITY ENFORCING SPOUSAL</u> <u>SUPPORT ORDERS</u>	11-900
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11-901	SCOPE	11-901
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This chapter governs the procedure that shall be followed when the Director determines pursuant to Welfare & and Institutions Code Section 11475.2 that a public agency, as defined in Section 11-902, is failing to comply with the provisions of the State Plan relating to determining paternity, securing child support, and ~~determining paternity~~ enforcing existing spousal support orders when enforced in conjunction with a child support obligation. All compliance matters relating to determining paternity, securing child support, and ~~determining paternity with~~ enforcing spousal support orders shall be subject to the provisions of this chapter rather than the provisions of Chapter 11-800.

Authority Cited: Sections 10553 and 11475(b), Welfare and Institutions Code.

Reference: Sections 11475.1 and 11475.2, Welfare and Institutions Code.

Amend MPP Section 11-902 to read:

11-902 DEFINITION

11-902

A public agency for the purposes of this chapter is any the county welfare department or other unit of local government which district attorney who is required by law, by delegation of the Department, or by cooperative agreement to perform functions relating to the State Plan for determining paternity, securing child support and determining paternity enforcing spousal support orders when enforced in conjunction with the child support obligation.

Authority Cited: Sections 10553 and 11475(b), Welfare and Institutions Code.

Reference: Sections 11475.1 and 11475.2, Welfare and Institutions Code.

Amend MPP Section 11-903 to read:

11-903 VOLUNTARY CORRECTIVE PROCEDURES

11-903

When the Director becomes aware of a potential compliance problem under the State Plan for determining paternity, and securing child support, and enforcing spousal support, the Director shall initially proceed as follows:

- .1 Where the potential for a compliance problem may exist in a county welfare department, the Director shall contact the county director regarding the potential problem to determine the extent of the problem and what steps the county is taking to avoid or correct it. If there is reasonable cause to believe that a potential compliance problem may exist, the Director shall assign Department staff to work with the county director to achieve a voluntary correction of the potential problem.
 - .11 If the potential compliance problem relates to county functions carried out under a plan of cooperation with the county district attorney's office, the Director shall also contact the district attorney and request his/her assistance in correcting the problem.
- .2 Where the potential for a compliance problem may exist in regard to State Plan functions carried out by a district attorney's office pursuant to a plan of cooperation, the Director may contact the district attorney to determine the extent of the problem, if any. If there is reasonable cause to believe that a potential compliance problem may exist, the Director shall contact the Attorney General's Office in working with the district attorney to achieve a voluntary correction of the potential compliance problem.

Authority Cited: Sections 10553 and 11475(b), Welfare and Institutions Code.

Reference: Sections 11475.1 and 11475.2, Welfare and Institutions Code.

Amend MPP Section 11-904.1 to read:

11-904 NOTICE OF INTENT TO ENFORCE COMPLIANCE

11-904

- .1 If the procedures described in Section 11-903 do not result in a voluntary correction of ^a compliance problem and the Director thereafter finds that the public agency is failing in a substantial manner to comply with any provision of the State Plan for determining paternity, securing child support, and determining paternity enforcing spousal support, and that sanctions are necessary to secure compliance, the Director shall put such agency on written notice to that effect.
(Continued)

Authority Cited: Sections 10553 and 11475(b), Welfare and Institutions Code.

Reference: Sections 11475.1 and 11475.2, Welfare and Institutions Code.

Amend MPP Section 11-905.4, .5, and .51 to read:

11-905 COMPLIANCE CONFERENCE (Continued)

11-905

- .4 If, at the compliance conference, the public agency fails to establish that it is in compliance, or fails to present a satisfactory plan for compliance, the Director may proceed to invoke the proposed sanction(s) after notifying the public agency of his/her decision pursuant to Section 11-905.5.
- .5 The Director shall notify the public agency of his/her decision within ten days of the conference.
- .51 If the public agency is a district attorney's office the Director shall consult with the Office of the Attorney General before making his/her final decision.

Authority Cited: Sections 10553 and 11475(b), Welfare and Institutions Code.

Reference: Section 11475.2, Welfare and Institutions Code.

Office of Administrative Law Certification of Approval

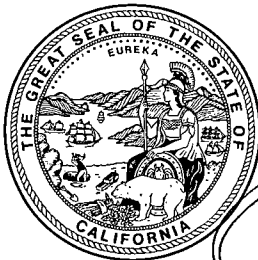
FILED
In the office of the Secretary of State
of the State of California

SEP 01 1987
At 4:48 o'clock P. M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

I, Linda Hurdle Stockdale Brewer, hereby certify that the regulations submitted in the rulemaking file identified below were reviewed and approved by me this date, in my capacity as the Director of the Office of Administrative Law.

Submitting Agency: Department of Social Services

OAL File No.: 87-0805-03



[Signature] 8-31-87
Linda Hurdle Stockdale Brewer Date
Director

FACE SHEET

(See Instructions on Reverse)

SUBMITTED FOR REVIEW

ORD #0286-11

AUG 03 1987

OFFICE OF ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

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SEP 01 1987
At 4:42 o'clock P.M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

ENDORSED
APPROVED FOR FILING

SEP 01 1987

Office of Administrative Law

Department of Social Services

(AGENCY)

[Signature]
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 7/24/87

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) Rosalie Clark, Chief Regulations Development Bureau TITLE 445-0313 TELEPHONE
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: _____
SECTIONS AMENDED: 30-769.84
SECTIONS REPEALED: _____
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
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☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER August 1, 1986 b. DATE OF FINAL AGENCY ACTION July 30, 1987 c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
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 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
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FILING REQUIREMENTS

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- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Amend Section 30-769.84 to read:

30-769 PAYROLLING FOR INDIVIDUAL PROVIDERS (Continued) 30-769

.8 Provider Benefits (Continued)

- .84 The department has elected ~~not~~ to deduct and transmit the state and federal income taxes ~~or~~ withholdings due on the provider's earnings since it is not a responsibility of the recipient employer required by state ~~or~~ federal law for those providers who voluntarily request this service.

Authority Cited: Welfare and Institutions Code Section 10553.

Reference: Welfare and Institutions Code Section 12302.2,
Statutes of 1978, Chapter 463.

Office of Administrative Law Certification of Approval

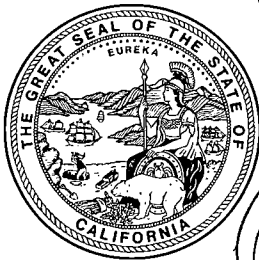
FILED
In the office of the Secretary of State
of the State of California

SEP 01 1987
At 4:40 o'clock P. M.
MARCH FONG EU, Secretary of State
By *[Signature]*
Deputy Secretary of State

I, Linda Hurdle Stockdale Brewer, hereby certify that the regulations submitted in the rulemaking file identified below were reviewed and approved by me this date, in my capacity as the Director of the Office of Administrative Law.

Submitting Agency: Department of Social Services

OAL File No.: 87-0731-02



[Signature] 9-1-87
Linda Hurdle Stockdale Brewer Date
Director

FACE SHEET

81-0819-01E
(See Instructions on Reverse)

SUBMITTED FOR REVIEW

AUG 1 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

SEP 0 1 1987

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

EMERGENCY
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

L. S. McHugh
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

8/13/87

RDB #0787-39

FILED

In the office of the Secretary of State
of the State of California

SEP 0 1 1987

At 4:40 o'clock P. M.

MARCH FONG EU, Secretary of State

By

Patricia B. Bate
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)
Rosalie Clark, Chief, Regulations Development Bureau
TELEPHONE 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
(Complete Part 4 below)
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED:
63-072
SECTIONS AMENDED:
63-501.111; 63-501.3(k); and 63-502.2(c), (e)(1), (e)(2)(B), and (k)
SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL:
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
N/A
b. DATE OF FINAL AGENCY ACTION
August 13, 1987
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State. (September 1, 1987)
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

PUBLIC NOTICE

October 21, 1987 Public Hearing

ITEM #7

Higher Education Amendments of 1986

CHAPTERS

Manual of Policies and Procedures Chapters 63-000 (Implementation Schedule) and 63-500 (Eligibility Determinations).

INFORMATIVE DIGEST

Recent changes to the federal Food Stamp Program regulations made by the United States Department of Agriculture Food and Nutrition Service (FNS) mandate the State Department of Social Services (SDSS) to implement regulation changes resulting from the Higher Education Amendments of 1986 (Federal Register, Vol. 52, No. 104, dated June 1, 1987) by no later than June 1, 1987.

In order to implement these changes, regulation amendments are being made to include the following provisions which are not addressed in current regulations: 1) Provide an additional income exclusion for student financial assistance (payments, loans, reimbursements or allowances) received by an individual from any program federally funded under Title IV of the Higher Education Act to the extent the student provides verification that the funds are intended to be used for tuition, mandatory school fees, books, supplies, transportation and miscellaneous personal expenses (other than room, board and/or dependent care) that are related to attendance at a post-secondary educational institution and verification of at least half-time attendance; and 2) Provide a resource exclusion for financial assistance provided under Title IV of the Higher Education Act.

COST ESTIMATE

1. Costs and Savings to State Agencies: Negligible amount.
2. Costs and Savings to Local Agencies or School Districts: Negligible amount.
3. Nondiscretionary Costs or Savings to Local Agencies: Negligible amount.
4. Federal Funding to State Agencies: Negligible amount.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies, or on school districts. There are no state mandated local costs in these regulations which require state reimbursement under Sections 17500 et seq. of the Government Code because there is no estimated increase in local costs associated with the implementation of these regulations.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

SDSS finds that the adoption of these regulations will result in no significant impact on private persons or businesses.

SMALL BUSINESS IMPACT STATEMENT

SDSS finds that the adoption of these regulations will result in no significant impact on small businesses.

AUTHORITY AND REFERENCE CITATIONS

These regulations are proposed for adoption under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 18904. Subject regulations implement and make specific Federal Register Vol. 52, No. 104, dated June 1, 1987, 7 CFR 272.1(g)(89), 7 CFR 273.8(e)(11)(xi), and 7 CFR 273.9(c)(3), (4), (5)(ii)(B) and (10)(xi), Government Code Sections 11349(c) and (d), and Welfare and Institutions Code Sections 10554 and 18904.

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

The following facts constitute the emergency:

1. On June 1 1987, the United States Department of Agriculture adopted regulations affecting eligibility for food stamp benefits. These federal changes are to be implemented on June 1, 1987.
2. The federal regulations implemented by this regulation package (a) allow financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act to be excluded from resources, and (b) allow financial assistance, loans and reimbursements provided under Title IV of the Higher Education Act to be excluded from income, to the extent the student provides verification that the funds are intended to be used for tuition, mandatory school fees, books, supplies, transportation and miscellaneous personal expenses (other than room, board and/or dependent care) that are related to attendance at a post-secondary educational institution and verification of at least half-time attendance.

For more detail regarding these changes, the reader is referred to the attached Public Notice and Statement of Reasons.

3. Welfare and Institutions Code Section 18901 requires that applicants' and recipients' food stamp eligibility be determined to the extent permitted by federal law.
4. Any instruction designed to implement these changes constitutes a standard of general application used to make specific, implement or interpret the food stamp law as administered by the Department. Therefore, such instructions to the county welfare departments would be considered a regulation and subject to the rulemaking process of the Administrative Procedure Act (Government Code Section 11342 et seq.).

5. The nonemergency rulemaking process set forth in Administrative Procedure Act is sufficiently lengthy that it would further delay the adoption of state regulations which are necessary to ensure that applicants and recipients receive the food stamp benefits to which they are entitled as provided for in Welfare and Institutions Code Section 18901.
6. Also, such a delay would also frustrate the general purpose of the Food Stamp Program as set out in Welfare and Institutions Code Section 18900, of providing significant health vital benefits. In addition, it would increase the administration burden upon county welfare departments in terms of the time and cost involved in granting potential retroactive benefits to the affected applicants and recipients.
7. Until these federal rules are implemented, the state's food stamp plan will remain out of conformity with federal regulations. This would subject the state to the likelihood of fiscal sanctions from the United States Department of Agriculture as well as potential lawsuits from the persons these changes were intended to help.
8. Therefore, in order to comply with the federal and state mandates governing the Food Stamp Program, to ensure recipients receive the benefits to which they are entitled, and to avoid possible needless administrative expense and litigation, these regulations are adopted as an emergency measure, to become effective on September 1, 1987.

INITIAL STATEMENT OF REASONS

- a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Recent changes to the federal Food Stamp Program regulations made by the United States Department of Agriculture Food and Nutrition Service (FNS) mandate the State Department of Social Services (SDSS) to implement regulation changes resulting from the Higher Education Amendments of 1986 (Federal Register, Vol. 52, No. 104, dated June 1, 1987) by no later than June 1, 1987.

In order to implement these changes regulation amendments are being made to include the following provisions: 1) Provide an additional income exclusion for student financial assistance (payments, loans, reimbursements or allowances) received by an individual from any program federally funded under Title IV of the Higher Education Act to the extent the student provides verification that the funds are intended to be used for tuition, mandatory school fees, books, supplies, transportation and miscellaneous personal expenses (other than room, board and/or dependent care) that are related to attendance at a post-secondary educational institution and verification of at least half-time attendance; and 2) Provide a resource exclusion for financial assistance provided under Title IV of the Higher Education Act.

- b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

Section 63-072Specific Purpose:

The purpose of this provision is to provide CWDs with a specific date by which all provisions contained in these regulations are to be implemented. This date may or may not coincide with the effective date of these regulations (September 1, 1987). However, by providing this direction, departmental reviewing and/or auditing units can easily determine if a county is out of compliance.

CWDs shall implement the new provisions for all new food stamp applications effective September 1, 1987.

Implementation and restoration of benefits shall be made for continuing cases and any households entitled to restored benefits upon request by the household, at recertification, when the case is next reviewed, or when the CWD becomes aware that a review is needed, whichever occurs first.

For a household that applied for benefits from October 17, 1986 until August 31, 1987 and was denied, the household is entitled to restored benefits back to October 17, 1986 or date of application whichever occurred later, if the household is otherwise entitled to benefits and the household requests a review of its case or the CWD becomes aware a review is needed.

Factual Basis:

This proposed regulation is necessary to implement the federal mandates and to ensure compliance with federal regulations contained in 7 CFR 272.1(g)(89) and Welfare and Institutions Code Section 18904.

Section 63-501.111

Specific Purpose:

This section is being amended to include the new resource exclusion for funds provided by Title IV of the Higher Education Act, as amended by Public Law 99-498. The reference citation must be renumbered to be consistent with the required amendment of Section 63-501.3(k).

Factual Basis:

The revision is being made based on Federal Register Vol. 52, No. 104, dated June 1, 1987, 7 CFR 273.8(e)(11)(xi), Government Code Sections 11349(c) and (d), and Welfare and Institutions Code Section 10554.

Section 63-501.3(k)(12)

Specific Purpose:

This section is being amended to specify that financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act, as amended by Public Law 99-498, is considered an excludable resource for food stamp purposes based on a federal statute.

Factual Basis:

The revision is being made based on Federal Register Vol. 52, No. 104, dated June 1, 1987, 7 CFR 273.8(e)(11)(xi).

Section 63-502.2(c)(5)

Specific Purpose:

This section is being amended to specify that portions of federal financial assistance (payments, loans, reimbursements or allowances) provided by a program funded in whole or in part under Title IV of the Higher Education Act, as amended by Public Law 99-498, to students attending an institution of post-secondary education on at least a half-time basis shall be excludable as income. Only the federal assistance intended to be used for specified costs is eligible for the exclusion.

In addition, this regulation states the verification requirements for specified educational costs which must be provided to the CWDs by the student and clarifies that if these verification requirements are not met the exclusions are not allowed. Further, this regulation states that excludable expenses claimed by the student shall not exceed the value of the total amount of educational assistance granted from a program funded under Title IV of the Higher Education Act. A handbook section is being added to provide examples of acceptable forms of documentation as discussed in the Preamble under "Verification" in Federal Register Vol. 52, No. 104, Page 20378, dated June 1, 1987.

Factual Basis:

This adopted regulation is made based on Federal Register Vol. 52, No. 104, dated June 1, 1987, 7 CFR 273.9(c)(3), (4), and (10)(xi).

Section 63-502.2(e)(1)(F)

Specific Purpose:

This section is being amended to implement the federal requirement which allows federal reimbursements to students with funds provided under Title IV of the Higher Education Act to be considered an income exclusion.

Factual Basis:

This revision is made based on Federal Register Vol. 52, No. 104, dated June 1, 1987, 7 CFR 273.9(c)(5)(ii)(B).

Section 63-502.2(e)(2)(B)

Specific Purpose:

This section is being amended to specify that federal educational assistance under Title IV is an exception to the rule that only those portions of any federal educational assistance which are intended for tuition and mandatory fees may be considered an excludable reimbursement. The amendment provides that federal Title IV educational assistance such as grants or loans for specified costs will also be considered an excludable reimbursement. In addition, the handbook section is being repealed because most of the expenses listed will be excludable when paid for with Pell Grant or Supplemental Educational Opportunity Grant (SEOG) assistance.

Factual Basis:

This revision is based on Federal Register Vol. 52, No. 104, dated June 1, 1987, 7 CFR 273.9(c)(5)(ii)(B).

Section 63-502.2(k)(4)

Specific Purpose:

This section is being amended to specify that Title IV funds received by students for specified educational costs are considered an income exclusion by federal statute.

Factual Basis:

The revision made is based on Federal Register Vol. 52, No. 104, dated June 1, 1987, 7 CFR 273.9(c)(10)(xi).

c) Identification of Documents Upon Which Department is Relying

1. Federal Register, Vol. 52, No. 104, dated June 1, 1987.
2. Public Law 99-498.
3. 7 CFR 272 and 273.

d) Testimony and Response

(To be completed after the Public Hearing.)

e) Local Mandate Statement

These regulations do not impose a mandate on local agencies, or on school districts. There are no state mandated local costs in these regulations which require state reimbursement under Sections 17500 et seq. of the Government Code because there is no estimated increase in local costs associated with the implementation of these regulations.

f) Statement of Potential Cost Impact on Private Persons or Businesses

SDSS finds that the adoption of these regulations will result in no significant impact on private persons or businesses.

g) Small Business Impact Statement

SDSS finds that the adoption of these regulations will result in no significant impact on small businesses.

Adopt new Section 63-072 to read:

63-072 IMPLEMENTATION OF HIGHER EDUCATION AMENDMENTS 63-072
OF 1986 (PUBLIC LAW 99-498)

- .1 Sections 63-501.111, 63-501.3(k)(12), 63-502.2(c)(5),
63-502.2(e)(1)(F), 63-502.2(e)(2)(B), and 63-502.2(k)(4), as
amended herein, shall become effective September 1, 1987.
- .2 These amended or adopted provisions in Section 63-072 shall
be implemented as follows:
 - .21 Beginning September 1, 1987, the CWDs shall implement
the amended or adopted provisions for all new food stamp
applications.
 - .22 For continuing cases and any households entitled to
restored benefits, these provisions shall be implemented
and appropriate restoration of benefits made upon
request by the household, at recertification, when the
case is next reviewed, or when the CWD becomes aware
that a review is needed, whichever occurs first.
Restored benefits are to be provided back to the date of
application or October 17, 1986, whichever occurred
later.
 - .23 For a household that applied for benefits from October
17, 1986 until August 31, 1987 and was denied, the
household is entitled to restored benefits back to
October 17, 1986 or date of application, whichever
occurred later, if the household: (1) is otherwise
entitled to benefits and (2) requests a review of its
case or the CWD becomes aware a review is needed.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and
Institutions Code.

Reference: Section 18904, Welfare and Institutions Code
and 7 CFR 272.1(c)(89).

Amend Section 63-501.111 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.1 Definition of Resources (Continued)

.11 (Continued)

- .111 A non-recurring lump sum payment includes, but is not limited to, income tax refunds, rebates or credits; retroactive lump-sum social security, railroad retirement benefits, or other payments; retroactive payments from the approval of an application for any assistance program; court ordered retroactive payments for any assistance program; supplemental or corrective payments received for a previous month from any assistance program; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other Federal law in accordance with Sections 63-501.3(k) (1) through (712) or by ~~Section~~ 63-501.3(1).

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 10554, Welfare and Institutions Code; Sections 11349(c) and (d), Government Code; and 7 CFP 273.8(e)(11)(xi).

Amend Section 63-501.3(k) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

•3 Exclusions from Resources

In determining the resources of a household, only the following shall be excluded: (Continued)

- k. Resources which are excluded for food stamp purposes by federal statute. The following is a listing of some of the resources excluded by federal statute: (Continued)

(12) Financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act (as amended by Public Law 99-498).

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.8(e)(11)(xi).

Amend Section 63-502.2(c) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions. (Continued)

- c. Regardless of their source, educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of post-secondary education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. (Continued)

(5) Portions of financial assistance (payments, loans, reimbursements or allowances) funded in whole or in part under Title IV of the Higher Education Act of 1965 (as amended by Public Law 99-498), provided to students attending an institution of post-secondary education as defined in Section 63-502.2(c)(1) on at least a half-time basis, shall be excludable. Only the assistance intended to be used for tuition, mandatory school fees, books, supplies, transportation and miscellaneous personal expenses (other than room, board and/or dependent care) related to the cost of attendance at the educational institution shall be excluded.

(A) The CWD shall verify all factors affecting this provision. The student shall be responsible for providing the CWD with information to document:

(i) The institution considers the student to be attending the institution on at least a half-time basis.

(ii) Educational assistance received is from a program funded in whole or in part under Title IV of the Higher Education Act.

(iii) Amounts claimed for tuition, mandatory school fees, books, supplies, transportation and miscellaneous personal expenses.

In order to document claimed costs a student may use, but is not limited to, student budgets, award letters, and/or receipts.

(a) Until such time as appropriate verification is presented to the CWD, any portion of assistance received from a program funded in whole or in part under Title IV of the Higher Education Act which is not verified shall not be excluded.

(c) Excludable expenses claimed by the student shall not exceed the value of the total amount of educational assistance granted from a program funded under Title IV of the Higher Education Act.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(3), (4), and (10)(xi).

Amend Section 63-502.2(e)(1) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions. (Continued)

e. (Continued)

(1) The following excludable reimbursements which are not considered to be a gain or benefit to the household include: (Continued)

(F) Federal reimbursements to students provided by a program funded in whole or in part under Title IV of the Higher Education Act, to the extent that the verification requirements are met as specified in Section 63-502.2(c)(5).

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(5)(ii)(B).

Amend Section 63-502.2(e)(2)(B) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS, (Continued) 63-502

• 2 Income Exclusions. (Continued)

e. (Continued)

(2) The following shall not be considered a reimbursement excludable under this provision: (Continued)

(3) Portions of any federal educational grant, scholarship, fellowship, veterans' educational benefit and the like to the extent they provide income assistance beyond that used for tuition and mandatory school fees as set forth in Section 63-502.2(c). This provision does not apply to educational assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act to the extent that the verification requirements are met as specified in Section 63-502.2(c)(5).

College related expenses such as books, travel, supplies, board, rent, transportation or equipment paid for with Pell Grant or Supplemental Educational Opportunity Grant (SEOG) assistance are not excludable under this provision.

Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(5)(ii)(B).

Amend Section 63-502.2(k) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions. (Continued)

- k. Any income that is specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program. The following is the current listing of income excluded by federal statute: (Continued)

(4) Federal educational assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act are excludable to the extent specified in Section 63-502.2(c)(5).

is

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(10)(xi).

Office of Administrative Law Certification of Approval

FILED
in the office of the Secretary of
of the State of California
SEP 01 1987
At 4:48 o'clock P. M.
MARCH FONG EU, Secretary of State
By *[Signature]*
Deputy Secretary of State

I, Linda Hurdle Stockdale Brewer, hereby certify that the regulations submitted in the rulemaking file identified below were reviewed and approved by me this date, in my capacity as the Director of the Office of Administrative Law.

Submitting Agency: Department of Social Services

OAL File No.: 87-0819-01E



[Signature] 8-31-87
Linda Hurdle Stockdale Brewer Date
Director

RESUBMITTAL

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

87-0731-03
(See Instructions on Reverse)

RDB #0285-14

SUBMITTED FOR REVIEW
JUL 6 1987
JUL 2 1987

OFFICE OF ADMINISTRATIVE LAW
OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
SEP 0 1 1987

For use of Office of Adm Law

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

John S. McArthur
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 8/31/87

FILED

In the office of the Secretary of State
of the State of California

SEP 0 1 1987

At 4:40 o'clock P. M.

MARCH FONG EU, Secretary of State

By *Robert B. Bala*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie P. Clark, Chief, Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☒ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:

Title See Attachment #1

SECTIONS AMENDED:

See Attachment #1A

SECTIONS REPEALED:

See Attachments #1B through #1H

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

See Attachment #2

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☐ No ☒ Yes, if yes, give date(s) of prior submittal(s) to OAL: October 2, 1986

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☐ No ☒ Yes, if yes, give date statement was submitted to OAL: May 31, 1983

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPCC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
October 4, 1985

b. DATE OF FINAL AGENCY ACTION
August 31, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
July 7 through July 21, 1986; June 19, 1987 through July 6, 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date later than the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include: *Fire and panic safety regulations*
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Attachment #1: Sections Adopted

70-100(a) through (yy)	70-501	70-708.1
70-200	70-502	70-800
70-201.1 through .4	70-503.1 through .7	70-801.1 and .2
70-202.1 through .4	70-504.1 through .3	70-802.1 through .4
70-203.1	70-505.1	70-803.1
70-204.1 through .3	70-506.1 through .8	70-804.1 through .4
70-205.1 through .4	70-507.1 through .8	70-805.1 and .2
70-300	70-508.1 through .9	70-806.1
70-301.1 through .4	70-509.1 through .4	70-807.1
70-302.1 and .2	70-700	70-808.1
70-303.1 through .9	70-701.1 through .4	70-809.1 and .2
70-400	70-702.1	
70-401.1 through .8	70-703.1 through .3	
70-402.1 through .7	70-704.1	
70-403.1 through .7	70-705.1	
70-404.1	70-706.1	
70-405.1 and .2	70-707.1 and .2	
70-500		

Attachment #1A: Sections Amended

70-600
70-601.1, .2, .3, .4, .5, .6, and .7
70-602
70-603.1, .4, .5, .6, .7, .8, and .9
70-604.2, .4, and .7
70-605.3 and .4
70-606.1
70-607.3, .4, and .6
70-608.2 and .5

Attachment #1B: Sections Repealed

70-802.1 through .5

Attachment #2: Modified Text Made Available to Public During Second
15-Day Renotice.

70-100(d), (h), (z), and (zz)
70-201.1 and .3
70-203.1
70-205.3
70-301.1
70-302.1(J) and (S)
70-303.1, .2, .3, .7, and .8
70-401.13
70-403.73
70-405.121
70-503.713
70-504.1
70-506.52
70-506.81
70-507.2, .4, .5, .6, .7, and .8
70-508.75
70-600
70-606.15
70-701.1 and .3
70-702.1
70-703.2 and .3
70-705.1
70-708.1
70-802.1 and .4
70-806.1
70-809.1

Repeal Sections 30517 through 30611, not consecutive as follows:

TITLE 22 SOCIAL SERVICES—HEALTH SERVICES (p. 519)
(Register 82, No. 6—2-8-82)

CHAPTER 3. ADOPTIONS AND CHILD PLACING AGENCIES

Subchapter

1. Adoption Agencies Licensing Application
2. Relinquishment Adoptions
3. Independent Adoptions
4. Adoption of Indian Children Subject to Provisions of the Federal Indian Child Welfare Act of 1978

DETAILED ANALYSIS

SUBCHAPTER 1. ADOPTION AGENCIES LICENSING APPLICATION

Article 1. Licensing

Section

- 30517. Maternity Care Plan
- 30519. County Adoption Agency Agreements—Maternity Care Program To Whom Payment is Made
- 30521. Period for Which Payment Can Be Made
- 30523. Repayment of Maternity Care

Article 2. Organization and Administration of an Adoption Agency

Section

- 30527. Administration—Public and Private Agencies
- 30545. Finances—Public Agencies

Article 3. Agency Offices and Records

Section

- 30567. Records, Reports and Statistics
- 30569. Case Records—Relinquishment and Independent Adoptions
- 30571. Independent Adoptions Case Records
- 30573. Case Documents Filed with SDSW
- 30575. Forms and Form Letters
- 30577. Continuing Agency Responsibility
- 30579. Completing Casework Services
- 30581. Case Records of Terminated Adoption Services

SUBCHAPTER 2. RELINQUISHMENT ADOPTIONS

Article 1. Program in Adoption Placement Agency

Section

- 30582. Definitions
- 30583. Agency Program
- 30585. Agency Standards of Services
- 30587. Case Recording
- 30589. Acceptable Medical Reports

Article 2. Natural Parents and Children

Section

- 30591. Intake Policies
- 30595. Required Study—Natural Parents
- 30597. Maternity Care Program
- 30599. Who May Receive Maternity Care Assistance
- 30601. Resources Available to the Mother
- 30603. Legal Residence
- 30605. Services and Study—The Child
- 30607. Authorizations for Release of Information
- 30609. Authorization for Medical Care
- 30611. Preadoptive Care

Authority: Welfare and Institutions Code Section 10553 and 10554

Reference: Welfare and Institutions Code Section 10553 and 10554

Repeal Sections 30616 through 30663, not consecutive as follows:

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(p. 520)

(Register 82, No. 8—2-8-82)

Article 3. Relinquishment

Section

- 30616. Language Translation and/or Reading
- 30619. Corrections or Alterations to the Relinquishment Form
- 30622. Copy to Parent

- 30625.1. Revocation
- 30625.3. Procedures Following Revocation
- 30625.5. Rescission
- 30625.7. Procedures Following Requests to Rescind

Article 3.5. Termination of Parental Rights

Section

- 30626. Termination of Parental Rights
- 30626.1. Definitions
- 30626.2. Procedures Regarding Alleged Natural Father

Article 4. Work With Applicants for Children

Section

- 30627. Acceptance of Applications
- 30629. Application—Prerequisite to Study
- 30631. Selecting Homes for Study
- 30633. Interviews During Study
- 30635. Authorizations
- 30637. Content of Study

Article 5. Placement and Supervision

Section

- 30639. Factors in Placement
- 30641. Responsibility of Agency to Inform Adopting or Foster Parents About Law Regarding Concealment of a Child
- 30643. Selection of Adoptive Parents for Child
- 30645. Placement Agreement Between the Agency and the Adoptive Parent or Parents
- 30647. Supervisory Period After Placement for Adoption
- 30649. Services and Legal Completion of Adoption When Families Move After Placement

Article 6. Court Proceedings and Completion of Adoption

Section

- 30651. Medical Responsibility of the Agency
- 30653. Responsibility of Agency to Tell Petitioners About Disbursement Report
- 30655. Agency Joinder and Consent to Adoption
- 30657. Court Report by Agency
- 30659. Pleading by Agency
- 30661. Motion by Agency for Approval to Terminate Placement
- 30663. Certificate of Adoption

Authority: Welfare And Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

Repeal Sections 30665 through 30713, not consecutive as follows:

TITLE 22 SOCIAL SERVICES—HEALTH SERVICES
(Register 82, No. 6—2-6-82)

(p. 521)

Article 7. Aid for the Adoption of Children

Section	
30665.	Purpose
30667.	Children and Families Served
30669.	Recruitment and Information
30670.	Exploration of Resources
30671.	Financial Assistance
30672.	Aid for the Adoption of Children Agreement
30672.1	Record Required
30673.	Responsibility for Payment
30674.	Private Agency—Cost Reimbursement

Article 8. Adoption Resource Referral Center

Section	
30675.	Purpose
30677.	Registration
30679.	Referrals
30681.	Discontinuance Notifications
30683.	Cooperation With Adoption Resource Exchange of North America

Article 9. Grievance Procedures—Relinquishment Adoption Program

Section	
30684.	Grievance Procedures

SUBCHAPTER 3. INDEPENDENT ADOPTIONS

Article 1. The Study

Section	
30685.	Independent Adoption
30686.	Services to Biological Parents, Child and Petitioners
30687.	Time Allowed for Study
30688.	The Adoptive Home
30689.	Content of the Study
30691.	The Child
30693.	The Parents
30695.	Adoptive Petitioners Absent From California
30697.	The Narrative Record
30699.	Responsibility of Agency to Tell Petitioners About Disbursement Report
30701.	Responsibility of Agency to Inform Petitioners About Concealment Provisions
30703.	Medical Reports and Examinations
30705.	Authorization
30707.	Verifications
30709.	Verification of Removal of Child from Adoptive Home

Article 2. Other Processes Related to Study

Section	
30711.	Concurrent Petitions
30713.	Extension of Time

Authority : Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

Repeal Sections 30715 through 30807, not consecutive as follows:

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(p. 522)

(Register 82, No. 6—2-8-82)

Article 3. Consent

Section	
30715.	Requirements Prior to Taking a Consent
30717.	Translation or Reading of Consent Form
30719.	Taking a Consent; Content of a Consent Form
30721.	Copy to Consenting Parents and Petitioners
30723.	Correcting or Altering a Consent
30724.	Termination of Parental Rights
30724.1.	Definitions
30724.2.	Procedures Regarding Alleged Natural Father

Article 4. The Court Report

Section	
30725.	Filing
30727.	Content
30729.	Supplemental Reports
30731.	Reporting to Court on Serious Questions

Article 5. Court Proceedings and Completion of Adoption

Section	
30735.	Certificate of Adoption

Article 6. Case Files, Records and Reports

Section	
30737.	Case Records Confidential

Article 7. Planning for Child in Denials and Dismissals

Section	
30801.	Responsibilities and Alternatives When Adoption is Not to be Completed
30803.	Commitment Procedures
30805.	Permanent Plan
30807.	Commitment Termination

Authority: Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554—

Repeal Sections 30900 through 30966, not consecutive as follows:

TITLE 22**SOCIAL SERVICES—HEALTH SERVICES**

(Register 82, No. 6—2-6-82)

(p. 522.1)

SUBCHAPTER 4. ADOPTION OF INDIAN CHILDREN SUBJECT TO PROVISIONS OF THE FEDERAL INDIAN CHILD WELFARE ACT OF 1978**Article 1. Definitions**

Section
30900. Definitions

Article 2. Certification of Indian Blood; Tribal Eligibility; Tribal Enrollment

Section
30905. Certification Procedures of Agency or District Office

Article 3. Natural Parents and Children

Section
30910. Required Study—Natural Parents
30912. Informing Parents of Act's Provisions
30914. Information Transmitted to Adoptee

Article 4. Relinquishment

Section
30919. Relinquishment—General Requirements
30921. Taking Relinquishment
30923. Filing Relinquishment
30925. Rescinding Relinquishment

Article 5. Consent—Independent Adoption

Section
30930. Consent—General Requirements
30932. Taking Consent
30934. Withdrawing Consent

Article 6. Termination of Parental Rights

Section
30940. Termination of Parental Rights—General Requirements
30942. Voluntary Termination of Parental Rights
30944. Involuntary Termination of Parental Rights

Article 7. Work with Applicants for Indian Children

Section
30950. Work with Applicants—General Requirements
30952. Information Transmitted to Applicants

Article 8. Petitioners for the Adoption of Indian Child—Independent Adoptions

Section
30957. Information Transmitted to Independent Petitioners

Article 9. Placement and Supervision

Section
30962. Placement and Supervision—General Requirements
30964. Selection of Adoptive Parents for an Indian Child
30966. Placement Agreement Between the Agency and the Adoptive Parent(s)

Authority: Welfare and Institutions Code Sections 10553 and 10554

Reference: Welfare and Institutions Code Sections 10553 and 10554

SOCIAL SERVICES—HEALTH SERVICES

TITLE 22

(p. 522.2)

(Register 82, No. 6—2-8-82)

1. The purpose of this regulation is to establish the minimum standards for the provision of social services to the elderly, blind, and disabled persons.

2. The Department of Social Services shall develop and maintain a system of quality assurance for the provision of social services.

3. The Department of Social Services shall develop and maintain a system of monitoring and evaluation for the provision of social services.

4. The Department of Social Services shall develop and maintain a system of data collection and analysis for the provision of social services.

5. The Department of Social Services shall develop and maintain a system of research and development for the provision of social services.

6. The Department of Social Services shall develop and maintain a system of training and professional development for the provision of social services.

7. The Department of Social Services shall develop and maintain a system of consultation and technical assistance for the provision of social services.

8. The Department of Social Services shall develop and maintain a system of public information and outreach for the provision of social services.

9. The Department of Social Services shall develop and maintain a system of evaluation and feedback for the provision of social services.

10. The Department of Social Services shall develop and maintain a system of continuous improvement for the provision of social services.

11. The Department of Social Services shall develop and maintain a system of accountability for the provision of social services.

12. The Department of Social Services shall develop and maintain a system of transparency for the provision of social services.

13. The Department of Social Services shall develop and maintain a system of integrity for the provision of social services.

14. The Department of Social Services shall develop and maintain a system of ethics for the provision of social services.

15. The Department of Social Services shall develop and maintain a system of professionalism for the provision of social services.

Office of Administrative Law

Certification

of

Approval

FILED
In the office of the Secretary of State
of the State of California

SEP 01 1987

At 4:40 o'clock P. M.

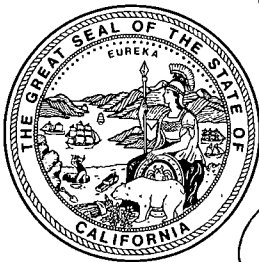
MARCH FONG EU, Secretary of State

By *[Signature]*
Deputy Secretary of State

I, Linda Hurdle Stockdale Brewer, hereby certify that the regulations submitted in the rulemaking file identified below were reviewed and approved by me this date, in my capacity as the Director of the Office of Administrative Law.

Submitting Agency: Department of Social Services

OAL File No.: 87-0731-03



[Signature]
Linda Hurdle Stockdale Brewer
Director

8-31-87
Date

Adopt new Division Heading to read:

Adoptions Program Regulations

Adopt New Chapter Heading to read:

70-100 Definitions

Adopt new Subsections (a) through (yy) excluding Subsections (b), (k), (l), (q), (u), (v), (kk), and (ll); and relocate, renumber and amend existing Section 70-800(a), (c), (d), (f), (g), (h), (i), and (j) to read:

70-100 DEFINITIONS

70-100

- (a) "Acknowledgement" means notice from the department of the filing of relinquishment(s) or Notice of Action in lieu of relinquishment that a child is free for adoptive placement.
- (ah) "Adoption Abroad" means the adoption of a foreign-born child by a United States citizen or a lawful permanent resident alien of the United States completed in foreign courts under the laws of the foreign country.
- (c) "Adoption Assistance Agreement" means a written document signed by the agency and the adoptive parent which provides that an adoption assistance payment may be made for the child, and specifies the terms of the payment.
- (d) "Adoption Assistance Program (AAP)" means a program of financial and/or medical assistance to facilitate the adoption of special needs children as defined in MPP Section 70-701.1.
- (e) "Adoptive Parent" means a person who has petitioned the court for, and obtained, a final decree for the adoption of a particular child or children.
- (f) "Agency" means a licensed California public or private adoption agency, or the department's adoption district offices.
- (g) "Agency Adoption" means an adoption in which an agency is authorized to:
 - (1) Assume care, custody, and control of the child through relinquishment of the child to the agency or involuntary termination of parental rights; and

(2) place the child for adoption; and

(3) supervise the adoptive placement.

(h) "Alleged Natural Father" means an identified or unidentified male who: (1) could be or claims to be the father of the child, and (2) does not meet the definition of a presumed father.

(i) "Applicant" means a person who has submitted a written application to adopt a child from an agency and who is being considered by the agency for the adoptive placement of a child.

(j) "California Children's Services" means that program authorized by the California Department of Health Services pursuant to Health and Safety Code Section 251.5 which provides treatment, diagnostic, and therapeutic services for eligible children under age twenty-one who have handicapping conditions as specified at Title 17, California Administrative Code, 2901.

(ek) "California Preadoption Requirements - Adoption Abroad" means assessment of applicant as required by MOP Section 70-603.

(dl) "California Preadoption Requirements - Adoption of a Foreign-Born Child in California" means:

(1) assessment of applicant as required by MPP Section 70-894, 603

(2) assessment of the child as required by MPP Section 70-895, 604

(3) obtain documentation from the foreign agency that the child is legally free for adoption

(4) determination that the child's needs can be met by placement with the prospective adoptive parent, and

(5) availability of post-placement supervision.

(m) "Child" means an unmarried and unemancipated person under the age of eighteen years. For the purposes of intercountry adoption "child" means a foreign-born, unmarried, unemancipated person under the age of sixteen years.

- (n) "Consent to Adoption" means the voluntary written agreement by the birth parent with a specified person to the adoption of the child.
- (o) "County" means the income maintenance division in each county welfare department responsible for federal and state eligibility determination and payment of AAP benefits.
- (p) "Days" means calendar days unless otherwise specified.
- (fg) "Department" means the State Department of Social Services.
- (r) "Disruption in Placement" means the termination of an adoptive placement prior to the issuance of a final decree of adoption.
- (s) "Filing" means the receipt by the department of a certified copy of a signed, witnessed, acknowledged and dated relinquishment form, date and time stamped by the department, which renders the relinquishment binding.
- (t) "Final Decree of Adoption" means a court order granting the completion of the adoption.
- (au) "Foreign Agency" means the foreign government, organization, or agent authorized under the laws of the foreign country to provide adoption services.
- (by) "Foreign Guardianship" means care, custody, control, and financial responsibility for the foreign-born child given to a United States citizen or a lawful permanent resident alien of the United States by the government of the child's native country.
- (w) "Freed for Adoption" means eligibility of the child for adoptive placement by: relinquishment for adoption, consent to adoption, court action, denial of paternity, or waiver of further notice of court proceedings.
- (x) "Grievance" means a written complaint or expression of dissatisfaction about procedures or actions taken by an agency before a petition for adoption is filed.
- (v) "Grievance Review Agent" means a person or panel designated by the director of the agency to conduct the grievance review and render a recommended decision to the director of the agency.
- (z) "Special Needs Child" means a child as specified in Welfare and Institutions Code Section 16116.

HANDBOOK

- (1) Welfare and Institutions Code Section 16116 reads in relevant part as follows:

"Welfare and Institutions Code Section 16116: a special needs child means a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical, or emotional handicap or age of three years or more."

- (2) The department has defined "adverse parental background" to mean any factor, or combination of factors including but not limited to a history of incest or other sexual abuse, a history of mental or physical illness within the biological family, or severe neglect or mental or physical abuse by the birth parent(s) or other caretaker(s), which could result in mental, physical, or emotional handicaps.

(aa) "Holding Period" means the time period agreed to by the agency and the relinquishing parent between the signing of the relinquishment for adoption and the receipt of a certified copy of the relinquishment by the department.

(bb) "Independent Adoption" means an adoption in which a birth parent selects the adoptive parents, places the child for adoption, and consents to the adoption.

(cc) "Indian Child Welfare Act (ICWA)" means the federal Indian Child Welfare Act of 1978 as codified at Title 25, United States Code, Section 1901, et. seq.

(dd) "Indian" means a person as defined at Section 1903(3) of the ICWA.

HANDBOOK

- (1) Title 25, United States Code Section 1903(3) reads as follows:

"'Indian' means any person who is a member of an Indian tribe, or who is an Alaska native and a member of a Regional Corporation as defined in Section 1606 of Title 43;"

(ee) "Indian Child" means a child as defined at Section 1903(4) of the ICWA.

HANDBOOK

- (1) Title 25, United States Code, Section 1903(4) reads as follows:

"Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;"

(ff) "Indian Child's Extended Family Member" means extended family member as defined at Section 1903(2) of the ICWA.

HANDBOOK

- (1) Title 25, United States Code, Section 1903(2) reads as follows:

"extended family member" shall be defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;"

(gg) "Indian Child's Tribe" means the child's tribe as defined at Section 1903(5) of the ICWA.

HANDBOOK

- (1) Title 25, United States Code, Section 1903(5) reads as follows:

"Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;"

(hh) "Indian Custodian" means an Indian person as defined at Section 1903(6) of the ICWA.

HANDBOOK

- (1) Title 25, United States Code, Section 1903(b) reads as follows:

"Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;"

(ii) "Indian Tribal Court" means a court as defined at Section 1903(12) of the ICWA.

HANDBOOK

(1) Title 25, United States Code, Section 1903(12) reads as follows:

"Tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings."

(jj) "Indian Tribe" means Indian tribe as defined at Section 1903(9) of the ICWA.

HANDBOOK

(1) Title 25, United States Code, Section 1903(8) reads as follows:

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska native village as defined in Section 1602(c) of Title 43;"

(+kk) "{INS}" means the Immigration and Naturalization Services agency within the United States Department of Justice charged with administering the immigration and naturalization laws of the United States.

(jll) "Intercountry Adoption" means intercountry adoption as defined at Welfare and Institutions Code Section 16140.

HANDBOOK

(1) Welfare and Institutions Code Section 16140 reads as follows:

"For the purposes of this Chapter 'intercountry adoption' means the adoption of a foreign-born child for whom federal laws make a special immigration visa

available. Intercountry adoption includes completion of the adoption in the child's native country or completion of the adoption in California."

(mm) "Interlocutory Decree of Adoption" means a court order used in AAP granting legal custody of the child to the petitioners prior to the final decree of adoption.

(nn) "Medical or Mental Health Professional" means a physician and surgeon, a clinical psychologist, a licensed clinical social worker, a person employed as a social worker by a county, or a marriage, family, and child counselor.

(oo) "Parent" means a birth parent or adoptive parent of a child.

(pp) "Parent of an Indian Child" means a parent as defined at Section 1903(9) of the ICWA.

HANDBOOK

(1) Title 25, United States Code, Section 1903(9) reads as follows:

"parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;"

(qq) "Parties to Grievance Review" means the applicant or prospective adoptive parent requesting the review and the representative of the agency responsible for the action.

(rr) "Presumed Father" means a father as defined at Civil Code Section 7004.

HANDBOOK

(1) A partial quote of Civil Code Section 7004 is located at MPP Section 70-205.131.

(ss) "Prospective Adoptive Parent" means a person with whom a child has been placed for adoption by an agency and for whom a final decree of adoption has not been granted.

(tt) "Recertification" means the process by which the agency and the adoptive parent determine whether there are any changes in either the child's needs or the adoptive parent's

circumstances which affect eligibility for and/or duration of and/or amount of adoption assistance payments.

(uu) "Rescission" means an action taken by mutual agreement between the relinquishing parent and the agency which accepted the relinquishment, to nullify the relinquishment after it has been filed.

(vv) "Revocation" means an action taken by the parent who has signed a relinquishment, to nullify the relinquishment before it has been filed.

(ww) "Secretary" means Secretary of the Interior as defined at Title 25 United States Code, Section 1903(11).

HANDBOOK

Title 25 United States Code, Section 1903(11) reads as follows:

"Secretary" means the Secretary of the Interior...

(xx) "Set Aside" means the legal process by which adoptive parents can secure the dismissal of the decree of adoption.

(yy) "Waiver" means the action taken by the department eliminating the need for the report required of the department when the agency is a party to or has joined in the petition for adoption.

Authority: Welfare and Institutions Code Sections 10553, 10554, 16118, 16118(a), 16141; Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Sections 10553, 10554, 10800, 16000, 16115, 16116, 16118, 16120, 16121; Civil Code Sections 25, 62, 221, 224, 224m, 224n, 224q, 226.1, 226.2, 226.4, 226.6, 226a, 226c, 227, 227b, 232, 239, 7001, 7002, 7003, 7004, 7017; Health and Safety Code Sections 251.2, 1502; 8 USC 1101(b)(1)(F); 25 USC 1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), (12); 42 USC 673 and 675.

Adopt new Chapter heading to read:

Chapter 70-200 - General Requirements

Adopt Section 70-201 to read:

70-201 CORRECTION, ALTERATION, TRANSLATION
 AND READING OF FORMS

70-201

- 1 The relinquishment or consent form shall not be corrected or altered unless the correction or alteration is initialed by:
 - 11 The parent who signed the form
 - 12 The reader or translator, if one was used
 - 13 The authorized representative of the agency
 - 14 The witnesses to the relinquishment.
- 2 If the parent signing the relinquishment or consent form cannot read English but can read his or her native language, the agency shall:
 - 21 Provide all consent and relinquishment forms in the parent's native language as these are available from the department.
 - 22 Provide for the written translation of the forms into the parent's language when forms in the parent's native language are not available from the department.
 - 221 The agency shall permit the parent to provide the translator
 - (a) If the translator is an employee of the agency, he/she shall not be responsible for the provision of adoption services to the relinquishing or consenting parent.

HANDBOOK

- (b) Applicant and children's services workers who have not provided direct services to

the relinquishing or consenting parent may translate relinquishments or consents for the relinquishing or consenting parent.

.222 If the parent cannot provide a translator, the agency shall provide a translator.

.23 The agency shall obtain a statement, signed by the translator, attesting that the forms were accurately translated.

.3 If the parent signing the relinquishment or consent cannot read, the agency shall:

.31 Provide for the reading of all forms to the parent in a language understood by the parent.

.32 Permit the parent to provide the reader.

.33 Provide the reader if the parent cannot provide the reader.

.331 If the reader is an employee of the agency, he/she shall not be responsible for the provision of adoption services to the relinquishing or consenting parent.

HANDBOOK

.332 Applicant workers and children's services workers who have not provided direct services to the relinquishing or consenting parent may translate relinquishments or consents for the relinquishing or consenting parent.

.34 Obtain a statement, signed by the reader, attesting that the forms were accurately read.

.4 The agency shall record the reading of the forms to the parent.

Authority: Welfare and Institutions Code Section 10553 and Health and Safety Code Section 1530.

Reference: Civil Code Sections 224m and 226.2.

Adopt new Section 70-202 to read:

70-202 RECRUITMENT-AGENCY ADOPTIONS

70-202

- .1 The agency shall inform the public regarding:
 - .11 The need for adoptive parents for special needs children
 - .12 AAP.
- .2 The agency shall recruit applicants who reflect the identified racial, ethnic, cultural, or religious backgrounds of children the agency is placing for adoption.
 - .21 The agency shall inform the unmarried applicant that the ability to adopt is not limited by the applicant's marital status.
- .3 The agency shall inform applicants regarding the availability of:
 - .31 Special needs children in need of adoptive parents
 - .32 Supportive services to assist the adoptive parent in meeting the special needs child's needs
 - .33 AAP payments for special needs children
 - .331 The agency shall inform the applicant for the adoption of the special needs child that the ability to adopt is not limited by the applicant's income or lack of income and that there is no test of the applicant's financial means as a prerequisite for adoption.
 - .34 Medi-Cal for special needs children.
- .4 The agency's efforts to recruit adoptive parents of the child's identified racial, ethnic, cultural, or religious background shall include the following within the first six months after the action freeing the child for adoptive placement:
 - .41 Contact with other public and private adoption agencies
 - .42 Presentation of information regarding the child on television and/or other media outreach programs, if appropriate

- 43 Presentation of information concerning the child at exchange meetings of agencies
- 44 Participation in the state photo-listing album of children as appropriate.

Authority: Welfare and Institutions Code Sections 10553 and 16118; and Health and Safety Code Section 1530.

Reference: Civil Code Section 276; Welfare and Institutions Code Sections 16115.5 and 16119; and 45 CFR 1355.40.

Adopt new Section 70-203 to read:

70-203 STAFFING REQUIREMENTS

70-203

- 1 The agency shall comply with Title 22, California Administrative Code, Division 6, Chapter 9, Articles 1 and 2.

HANDBOOK

- 11 The sections of the California Administrative Code which are relevant to the recruitment and maintenance of the agency's staff read as follows:

89140 GENERAL PERSONNEL REQUIREMENTS

The number of staff shall be adequate for the scope of the homefinding or adoption agency's services.

89143 PROFESSIONAL STAFF QUALIFICATION - HOMEFINDING AND ADOPTION AGENCIES

Staff members shall be qualified for their responsibilities by education, training, experience, personality, and health.:

89146 EXECUTIVE DIRECTOR QUALIFICATIONS - PRIVATE HOMEFINDING AND ADOPTION AGENCIES

- (a) The executive director shall have professional training in the field of child or family welfare, or have demonstrated ability and leadership through experience as an executive in the field of child or family welfare.
- (b) When the function of the agency requires it, the executive director shall be qualified for the additional duties he may have to assume, such as supervision of casework services.

89149 EXECUTIVE DIRECTOR RESPONSIBILITY AND DUTIES - PRIVATE AND PUBLIC HOMEFINDING AND ADOPTION AGENCIES

- (a) Private and Public Agencies. The executive director shall be responsible for the operation of the agency and shall be held accountable for it. He may delegate his authority but not his responsibility.
- (b) Private Agencies. The duties of the executive director shall include:

- (1) Appointing and dismissing staff, and working closely with the personnel committee of the Board.
 - (2) Attending all regular Board meetings and committee meetings of the Board, making reports concerning agency activities, and interpreting recognized standards of out-of-home care and adoption services to the Board.
 - (3) Holding regular staff meetings to discuss plans and policies.
 - (4) Organizing and carrying out a program of staff development for all staff members, and arranging for attendance of staff at social work conferences and other meetings which assist in professional growth and effectiveness.
 - (5) Carrying out a homefinding and placement program or an adoptive program in conformity with recognized standards.
 - (6) Providing leadership and stimulation in community planning for child and family welfare.
- (c) Public Agencies. The duties of the executive director shall include all responsibilities listed for the executive director of a private agency where applicable.

R9152 SUPERVISORY PERSONNEL

- (a) Responsibility. Each supervisory employee in an adoption or homefinding agency shall be responsible for the performance of assigned staff.
- (b) Qualification Requirements. Supervisory employees shall have the following qualifications.
 - (1) Public Agency. Supervisors shall be qualified for their responsibilities by education and experience, the minimum of which shall be either:
 - (A) Possession of a master's degree from an accredited graduate school of social work or completion of all work toward a degree except the thesis, and three years of full-time social work employment; or
 - (B) One year of experience as a Social Service Practitioner II or two years of experience as a Social Service Practitioner I, or their

equivalent, in a California county welfare department.

(2) Private Agency. Supervisors shall be qualified for their responsibilities by education and experience, the minimum of which shall be possession of a master's degree from an accredited graduate school of social work or completion of all work toward the degree except the thesis, and either:

(A) Three years of full-time social work employment in the field of family or child welfare; or

(B) Two years of full-time social work employment in a licensed homefinding or adoption agency.

89155 SOCIAL WORK PERSONNEL

(a) Social workers shall be employed to provide the social services in the agency's homefinding or adoption program.

(b) Except as otherwise provided, the minimum educational requirement for social worker shall be a master's degree from an accredited graduate school of social work or completion of all work toward a degree except the thesis. There shall be no waiver of this requirement as a condition of initial licensure. Waivers of the graduate education may be authorized by the Department if the agency has demonstrated a substantial and consistent effort to recruit and retain an adequate number of social workers with graduate training, and a selective certification or hiring plan is in effect whereby social workers possessing the qualifications shall be employed first.

(c) Optional Requirements - Public Agencies. Upon approval of waiver and except as provided in this section, the Department may authorize a public homefinding or adoption agency to use one or more of the following optional qualification requirements in the order given:

(1) Graduation from college, and either:

(A) One year of experience as a Social Service Worker II, or its equivalent, in a California county welfare department; or

(B) Two years of social work experience in a public welfare agency; one year of graduate education which was completed as part of the candidacy for a

master's degree in social work may be substituted for one year of the required experience.

- (2) Graduation from college with a major in social welfare; or graduation from college with a major other than social welfare and either:

(A) One year of experience in a public or private agency performing duties comparable to a Social Service Worker I. One year of graduate study which was completed as part of the candidacy for a master's degree in social work may be substituted for the required experience; or

(B) One year of experience as a Social Service Worker I, or its equivalent, in a California county welfare department. Completion of a Department approved in-service training course or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience.

(d) Optional Requirements - Private Agencies. Upon approval of waiver, and except as provided in this section, the Department may authorize a private homefinding or adoption agency to use the optional requirement of graduation from college and two years of social work experience in a social service agency. One year of graduate education in social work, or completion of an undergraduate major in social welfare may be substituted for one year of the required experience. Completion of a Department approved in-service training course, or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience. In all cases, however, a minimum of one year of experience shall be required under these substitution patterns.

(f) Additional Waiver Option for Both Public and Private Adoption or Homefinding Agencies. Graduation from college as the only requirement for social work personnel may be authorized if the agency has Department approved in-service training and staff development programs for staff recruited at this level.

89158 NUMBER OF STAFF

Professional and clerical staff shall be sufficient in number to perform the functions of the homefinding or adoption agency.

89161 PERSONNEL POLICIES

(a) In addition to the general requirements there shall be written personnel policies for homefinding and adoption agencies which include, but are not limited to the following:

- (1) Employment and tenure of staff shall be based solely on competence.
- (2) Copies of all regulatory material needed in the performance of their functions shall be available.
- (3) Staff shall be appropriately used through the development of a staffing plan based on all classifications used and showing the functions of each classification. The plan shall show the way aides and volunteers are to be used and to whom they are responsible.
- (4) Personnel policies, salaries and working conditions shall be such as to attract and hold competent, well-qualified staff.
- (5) Regular in-service training shall be provided.

Authority: Welfare and Institutions Code Section 10553 and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Section 16100 and Health and Safety Code Section 1530.

Adopt new Section 70-204 to read:

70-204 BACKGROUND INFORMATION - BIRTHPARENTS

70-204

- .1 The agency shall obtain the following information regarding the child's birthparents:

HANDBOOK

- .11 In addition to the requirements of this section, the agency may obtain and file in the adoption case record other information pertaining to the background of the birthparent. This information includes, but is not limited to, information on the birthparent's physical description, education, occupation, hobbies and interests, parents, grandparents, and siblings.
- .12 Name and current address
- .13 Date of birth
- .14 Religion
 - .141 Religious preference for the child, if applicable.
- .15 Marital history of the birthmother including dissolutions of marriage.
 - .151 When verification of the dissolution of all marriages of the birth mother is not possible, the marriages preceeding a verified divorce decree shall be assumed to have been validly dissolved.

HANDBOOK

- (a) A valid divorce presupposes that the marriage was valid.

- .16 Race and ethnic background
 - .161 If any documentation or oral report indicates that the birth parent may be of Indian ancestry, the agency shall obtain that information required by MPP Section 70-802.1.
- .17 Medical background, including illnesses, diseases, or defects of a hereditary or genetic nature as required by

Civil Code Section 224s(a) including the medical history of the birth parent's extended family if available.

HANDBOOK

- 171 The relevant content of Civil Code Section 224s(a) is found at MPP Section 70-507.51.
- 18 The agency shall obtain a report on the birth mother from the physician who delivered the child or from the hospital in which the child was born. The report shall include the following:
 - 181 Information regarding any medications taken by the mother during pregnancy
 - 182 Any complications of pregnancy or delivery
- 19 The agency shall obtain the birth mother's authorization for the release of medical information prior to fulfilling the requirement of MPP Section 70-204.17.

HANDBOOK

- 191 If it is not possible to obtain the birth mother's authorization, the agency may utilize a court order to obtain this information.
- 2 In agency adoptions, the agency shall obtain and verify all information necessary to identify those persons whose parental rights must be terminated prior to the placement of the child for adoption.
- 3 In independent adoptions, the agency shall obtain and verify all information necessary to identify those persons whose parental rights must be terminated prior to the issuance of a final decree of adoption.

Authority: Welfare and Institutions Code Section 10553 and Health and Safety Code Section 1530.

Reference: Civil Code Sections 224a, 224s, 226.6, 276, and
7004.

Adopt new Section 70-205 to read:

70-205 FREEING A CHILD FOR ADOPTION

70-205

.1 Independent Adoptions

- .11 The agency shall ensure that the legal relationship that exists between the child and his/her parents, if living, has been terminated prior to the issuance of a final decree of adoption.
- .12 The mother and presumed father may terminate their parental rights to the child by signing a consent to the adoption of the child.
 - (a) In the absence of a signed consent, parental rights shall be terminated by legal action pursuant to Civil Code Section 224 or 232.
- .13 When there is more than one presumed father, the rights of all presumed fathers shall be terminated either by consent to adoption of the child or by legal action pursuant to Civil Code Section 224 or 232.

HANDBOOK

- .131 Under Civil Code Section 7004(a) a conclusively presumed father is as defined at Evidence Code Section 621:

"Evidence Code 621: The issue of a wife co-habiting with her husband who is not impotent or sterile, is conclusively presumed to be a child of the marriage, unless the court finds that the conclusions of all experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (Commencing Section 890) of Division 7 of the Evidence Code are that the husband is not the father of the child."

- .132 Under Civil Code Section 7004(a)(1-4) a man is rebuttably presumed to be the natural father of the child if he meets any of the following criteria:

"(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or

within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.

(2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is, or could be, declared invalid; and

(i) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

(ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is, or could be, declared invalid, and

(i) With his consent, he is named as the child's father on the child's birth certificate; or

(ii) He is obligated to support the child under a written voluntary promise or by court order.

(4) He receives the child into his home and openly holds out the child as his natural child."

.14 The parental rights of all alleged natural fathers shall be terminated prior to the adoption of the child through court action or notification in accordance with Civil Code Section 7017 or by the alleged natural father's signing a consent, a waiver of further notice of the adoption proceedings, or a denial of paternity.

.15 If the mother identifies the alleged natural father and has knowledge of his whereabouts, the agency shall contact the alleged natural father and interview him.

.151 If the alleged natural father is interviewed, the agency shall request information on his family background, social history, and any information regarding his hereditary and genetic diseases or disabilities, if any.

.2 Agency Adoptions

.21 The agency shall terminate the legal relationship that exists between a child and his/her parents, if living, prior to the placement of the child for adoption, unless:

.211 The child is placed with assessed and approved prospective adoptive parents with the approval of the agency's administrator, and

(a) The birthmother and presumed father, if any, has signed a relinquishment for adoption, and

(b) The relinquishment has been filed with the department, and

(c) An action under Civil Code Sections 7017 or 7006 to terminate the parental rights of an alleged natural father is pending.

.22 The parental rights of the mother and presumed father shall be terminated either by relinquishment of the child to an agency or by court action brought by the agency pursuant to Civil Code Section 232.

.221 When there is more than one presumed father, the rights of all presumed fathers shall be terminated as specified in MPP Section 70-205.22.

.222 Subject to the exceptions set forth in Sections 70-205.21 through .211(c), the parental rights of all alleged natural fathers shall be terminated prior to the placement of the child for adoption by any of the following:

(a) Court action

(b) Notification pursuant to Civil Code Section 7017

HANDBOOK

- (1) If the alleged natural father is served with notice pursuant to Civil Code Section 7017 and no response is made within 30 days of service of such notice or the birth of the child, whichever is later, the alleged natural father's parental rights are terminated.

(c) Relinquishment of the child for adoption

(d) Waiver of further notice of the adoption proceedings

- (1) A waiver of further notice of the adoption proceedings shall be accepted by the agency before or after the birth of the child.

(e) Denial of paternity

- (1) A denial of paternity shall be accepted by the agency before or after the birth of the child.

.223 In the event that a court action is brought and the court determines that the alleged natural father is the presumed father the agency shall:

- (a) Obtain a signed relinquishment from the father, or
(b) Initiate court action pursuant to Civil Code Section 232.

.23 If the mother identifies the alleged natural father and has knowledge of his whereabouts, the agency shall contact the alleged natural father and interview him.

.231 If the alleged natural father is interviewed, the agency shall request information on his family background, social history, and any information regarding his hereditary and genetic diseases or disabilities, if any.

- .24 In the absence of the alleged natural father's signed relinquishment, waiver of notice or denial of paternity, the agency shall serve the alleged natural father with notice of the action he may take under Civil Code Section 7006 or to initiate an action to terminate the parental rights of the alleged natural father under Civil Code Section 7017.

HANDBOOK

- .241 If the alleged natural father is served with such notice and no response is made within 30 days of service, or the birth of the child, whichever is later, the alleged natural father's parental rights are terminated without further action.
- .25 In the absence of a relinquishment, waiver or denial signed by the alleged natural father or termination of the alleged natural father's parental rights through notification pursuant to Civil Code Section 7017, the agency shall take court action in accordance with Civil Code Section 7017.
- .251 The agency shall inquire of the mother and any other appropriate person as to whether:
- (a) The mother was married at the time of conception of the child or at any time thereafter
 - (b) The mother was cohabiting with a man at the time of conception or birth of the child
 - (c) The mother has received support payments or promises of support with respect to the child or in connection with her pregnancy
 - (d) Any man has formally or informally acknowledged or declared his possible paternity of the child.
- .252 The agency shall report the results of such inquiry to the court.
- .26 In the event that the mother identifies the alleged natural father or he has been identified to the satisfaction of the court and he cannot be located, the agency shall:

- .261 Inform the court that the alleged natural father cannot be located
- .262 Petition the court to terminate the alleged natural father's parental rights pursuant to Civil Code Section 7017, and
- .263 Request that the court dispense with the notice of the proceeding to the alleged natural father.
- .27 The agency shall contact any appropriate persons in an effort to identify and locate the alleged natural father in the event that the mother is unable or unwilling to identify him or names more than one man as the possible father.
 - .271 The agency shall inform the mother of any information received by the agency which tends to establish the identity of the alleged natural father prior to petitioning the court to terminate the alleged natural father's parental rights.
 - .272 If the alleged natural father is identified after the inquiry and the mother confirms his identity, the procedures under MPP Section 70-205.222 shall be followed.
 - .273 The agency shall petition to terminate the parental rights of the alleged natural father if he remains unidentified.
- .3 Notice - Independent and Agency Adoptions

HANDBOOK

- .31 In either an agency or an independent adoption, the alleged natural father's rights may be terminated by notice only.
- .32 When the alleged natural father is to be served in the state, service by mail must comply with the provisions of the Code of Civil Procedure Section 415.30.

HANDBOOK

- .321 Code of Civil Procedure Section 415.30 reads as follows:

"Code of Civil Procedure Section 415.30: Service by Mail.

- (a) A summons may be served by mail as provided in this section. A copy of the summons and of the complaint shall be mailed (by first-class mail or airmail, postage prepaid) to the person to be served, together with two copies of the notice and acknowledgment provided for in subdivision (b) and a return envelope, postage prepaid, addressed to the sender.
- (b) The notice specified in subdivision (a) shall be in substantially the following form:

(Title of court and cause, with action number, to be inserted by the sender prior to mailing)

NOTICE

To: (Here state the name of the person to be served.)

This summons is served pursuant to Section 415.30 of the California Code of Civil Procedure. Failure to complete this form and return it to the sender within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons upon you in any other manner permitted by law. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, this form must be signed in the name of such entity by you or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 415.30 provides that this summons is deemed served on the date of execution of an acknowledgment of receipt of summons.

Signature of sender

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS

This acknowledges receipt on (insert date) of a copy of the summons and of the complaint at (insert address).

Date _____

(Date this acknowledgment is executed)

Signature of person
acknowledging receipt, with
title if acknowledgment is made
on behalf of another person.

- (c) Service of a summons pursuant to this section is deemed complete on the date a written acknowledgment of receipt of summons is executed, if such acknowledgment thereafter is returned to the sender.
- (d) If the person to whom a copy of the summons and of the complaint are mailed pursuant to this section fails to complete and return the acknowledgment form set forth in subdivision (b) within 20 days from the date of such mailing, the party to whom the summons was mailed shall be liable for reasonable expenses thereafter incurred in serving or attempting to serve the party by another method permitted by this chapter, and, except for good cause shown, the court in which the action is pending, upon motion, with or without notice, shall award the party such expenses whether or not he is otherwise entitled to recover his costs in the action.
- (e) A notice or acknowledgment of receipt in form approved by the Judicial Council is deemed to comply with this section.

OFFICIAL FORMS

Mandatory and optional forms adopted and approved by the Judicial Council are set out in Volume 23, Forms Pamphlet."

- 33 When the alleged natural father is to be served in the state and he fails to return the acknowledgment of receipt of summons he shall be personally served as provided for in the Code of Civil Procedure Section 415.10.

HANDBOOK

- 331 Code of Civil Procedure Section 415.10 reads as follows:

"Code of Civil Procedure Section 415.10: Personal delivery of copy of summons and complaint; date:

A summons may be served by personal delivery of a copy of the summons and of the complaint to the person to be served. Service of a summons in this manner is deemed complete at the time of such delivery.

The date upon which personal delivery is made shall be entered on or affixed to the face of the copy of the summons at the time of its delivery. However, service of a summons without such date shall be valid and effective."

- 34 When the alleged natural father is to be served out-of-state, service by mail must comply with the provisions of the Code of Civil Procedure Section 415.40.

HANDBOOK

- 341 Code of Civil Procedure Section 415.40 reads as follows:

"Code of Civil Procedure Section 415.40: Service on person outside state: A summons may be served on a person outside this state in any manner provided by this article or by sending a copy of the summons and of the complaint to the person to be served by first-class mail, postage prepaid, requiring a return receipt. Service of a summons by this form of mail is deemed complete on the 10th day after such mailing."

•4 Filing of Documents - Agency Adoptions

•41 The agency shall file with the department the following documents which pertain to freeing a child for adoption:

•411 Supporting Information for Issuance of Department of Social Services Waiver and Acknowledgement, as appropriate

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(a) This is form AD 90. This document is required in order for the Department to issue its "Acknowledgement and Waiver."

•412 Notice of Procedure in Lieu of Signing Relinquishment, Waiver, or Denial, as appropriate

HANDBOOK

(a) This is form AD 551A

•413 Copies of court orders terminating parental rights, as appropriate

•414 Copies of notices sent to alleged natural fathers under Civil Code Section 7017 and proof of service, as appropriate

•415 Certified copies of relinquishments for adoption, as appropriate

•416 Copies of Statements of Understanding, as appropriate

•417 Copies of waivers of further notice to the adoption proceedings, as appropriate

•418 Copies of denials of paternity, as appropriate

•419 Copies of documents pertaining to a child who is freed for adoption in another state, as appropriate.

Authority: Welfare and Institutions Code Section 10553 and Health and Safety Code Section 1530.

Reference: Civil Code Sections 224, 224m, 229, 226.1, 232,
7004, 7006, and 7017; Code of Civil Procedure
Sections 414.10, 415.10, 415.30, 415.40,
415.50, 417.10, and 417.20.

Adopt new Chapter Heading to read:

Chapter 70-300 - Administrative Requirements

Adopt Section 70-301 to read:

70-301 ADMINISTRATION OF PUBLIC AND PRIVATE AGENCIES 70-301

.1 Fees

- .11 Adoption agencies shall comply with the requirements of Title 22, California Administrative Code, Division 6, Section 89137 and Civil Code Sections 224t and 225o.

HANDBOOK

- .111 Title 22, California Administrative Code, Section 89137 requires private agencies to obtain the approval of the department regarding the maximum fee that may be charged, and the agency's fee payment plan.
- .112 Civil Code Section 227(e) permits the agency to charge a reasonable fee to cover the costs of processing the requests for information under Civil Code Section 227(b).
- .113 Civil Code Section 225p permits a public agency to charge a fee of \$500. This fee may be deferred, waived, or reduced when:
 - (a) Payment would cause economic hardship for the prospective adoptive parents
 - (b) The child has been in the foster care of the prospective adoptive parents for at least one year
 - (c) Payment would be detrimental to the welfare of the adopted child
 - (d) Deferral, waiver, or reduction of the fee is necessary for the adoptive placement of a special needs child.

•2 Manual

•21 Agencies shall make available copies of the Manual of Policies and Procedures, Division 70 to all agency employees who provide adoption services.

•22 The agency shall make available a copy of Title 22, California Administrative Code, Division 6, to all agency employees who provide adoption services.

•3 Reporting Requirements

•31 Agencies shall submit the following reports to the department, including but not limited to:

•311 Reports required for the implementation of the ICWA

•312 Reports required for the implementation of Public Law 96-272 (Title 42, United States Code, Sections 673 and 675), including reports necessary to meet Title IV-B planning requirements

•313 Reports required for the determination of allocations to public adoption agencies

•314 Reports required for the department's evaluation of the efficiency of agencies in placing children for adoption.

•4 Maternity Care

•41 If the agency uses its adoption program allocation to assist the birth mother with the cost of private medical and/or hospital care the following conditions shall be met:

•411 The birth mother is financially unable to pay for private medical and/or hospital care

•412 The birth mother is not eligible for Medi-Cal

•413 The use of other public medical resources is not indicated.

•42 The agency shall utilize adoption program funds only when no other resource is available.

- 43 The agency shall determine that the mother is considering adoption at the time of approval for maternity care.

HANDBOOK

- 431 For purposes of receiving maternity care, the mother may be married or unmarried.

Authority: Welfare and Institutions Code Sections 10553, 10554, 16118, and 16141; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Sections 10553, 10852, 16118(b); Civil Code Section 225p; and 25 USC 1915(e).

Adopt Section 70-302 to read:

70-302 CONTENT OF CASE RECORD

70-302

- 1 Adoption agencies shall comply with the requirements of Title 22, California Administrative Code, Division 6, Sections 89179 and 89182.

HANDBOOK

- 11 Title 22, California Administrative Code, Division 6, Section 89179 requires the following:
 - 111 Adoption case records are to be retained by the agency indefinitely.
 - 112 In the event that an agency terminates its services, full case records on all completed adoptions, placements for adoption, and children relinquished for adoption shall be forwarded to the department for permanent filing and reference. Such records and documents shall include those regarding the natural parents, the child and the adoptive parents.
- 12 Title 22, California Administrative Code, Division 6, Section 89182 requires the following:
 - 121 Each agency shall maintain a case record for each family unit or individual served in its program.
 - 122 Case records shall include:
 - (a) A face sheet or application form.
 - (b) A typewritten record of the study.
 - (c) Medical and other reports.
 - (d) Correspondence.
 - (e) Applicable legal documents.
 - (f) Verifications.
 - (g) Evaluation of findings.
 - (h) Decisions reached.

(i) Actions taken.

(j) Court reports.

.123 All information in adoption case records is confidential. Adoption records shall be available only to authorized adoption personnel.

.2 In addition to the requirements of Title 22, California Administrative Code, Sections 89179 and 89182, adoption case records shall contain the following, as appropriate:

(a) All documentation pertaining to freeing the child for adoption as required by MPP Section 70-205

(b) All documentation pertaining to the translation and/or reading and/or correction of forms including the recordings of any readings of consent and relinquishment forms as required by MPP 70-201

(c) Copies of the written assessment of the child and applicant as required by MPP Section 70-504 and MPP Section 70-506

(d) A copy of the notice to the prospective adoptive parents of the agency's intent to remove the child from an adoptive placement

(e) A copy of the written notice to all parties to a grievance review hearing

(f) A copy of the agency director's decision regarding the grievance review hearing as required by MPP Section 70-509.41

(g) Copies of all requests for disclosure of information from the adoption case record including waivers of the right to confidentiality of adoption case records

(h) All documentation of eligibility for the Adoption Assistance Program (AAP) as required by MPP Section 70-701

(i) A copy of the signed Adoption Assistance Agreement

(j) Copies of the following documentation supporting the issuance of the acknowledgement and waiver:

- (1) Form AD 90 "Supporting Information for Issuance of Department of Social Services' Waiver and Acknowledgement"
- (2) Form AD 551A "Notification of Action In Lieu of Relinquishment"
- (3) All forms signed by the relinquishing parent which pertain to the relinquishment of the child for adoption including Statements of Understanding
- (4) Form AD 588 "Denial of Paternity"
- (5) Form AD 590 "Waiver of Further Notice of Adoption Proceedings"
- (6) Form AD 558 "Notice of Placement"
- (7) Documentation of action taken in another state to free the child
- (8) Form AD 906 "Acknowledgement of the Filing of Adoption Relinquishments - Notice of Actions in Lieu of Relinquishment - Waiver of Report of State Department of Social Services"
- (9) Form AD 4311 "Information on American Indian Child" and copies of any responses from Bureau of Indian Affairs (BIA) or the child's tribe
- (10) Forms AD 165 and 166 "Consent to Adoption"
- (11) Form ICPC 100A, if applicable
- (12) Form ICPC 100B, if applicable.
- (k) Copies of requests for medical background information under Civil Code Section 224s
- (l) Copies of medical background information transmitted to an adoptee and adoptive parent at time of placement under Civil Code Sections 224s and 224t
- (m) Copies of requests for identifying information under Civil Code Section 227
- (n) Copies of identifying information provided under Civil Code Section 227

- (o) Copies of waivers of the right to confidentiality of adoption case records under Civil Code Section 230.6
- (p) Copies of the birth mother's authorization for the release of medical information as required by MDP Section 70-204.19
- (q) Documentation of any attempt to place the child in accordance with the ICWA
- (r) A copy of the notice to the parent of an Indian child in the event that the adoptive petition is withdrawn, dismissed, or denied, or the adoption is set aside
- (s) A copy of the Interstate Compact on the Placement of Children (ICPC) acknowledgement/waiver
- (t) A copy of the receipt signed by the prospective adoptive parent acknowledging receipt of initial and updated medical background information on the child and birth parents
- (u) Copies of letters of reference regarding the suitability of applicants to be adoptive parents
- (1) Documentation of face-to-face interviews with references.

Authority: Welfare and Institutions Code Sections 10553a and 10554.

Reference: Welfare and Institutions Code Section 10553; Health and Safety Code Sections 1501, 1502, 1503, and 1508; Title 22, California Administrative Code, Sections 89170 and 89182.

Adopt Section 70-303 to read:

70-303 PROCEDURES FOR POST-ADOPTION SERVICES

70-303

.1 Adoption case records are confidential. Information shall be released from adoption case records as follows:

.11 The agency shall disclose information to an adoptee pursuant to Civil Code Section 1798.24(r).

HANDBOOK

.111 Civil Code Section 1798.24(r) reads as follows:

"Civil Code Section 1798.24: No agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the disclosure of the information is:...(r) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that the information does not include or reveal the identity of the natural parents."

.12 The agency shall disclose medically necessary information pertaining to an adoptee's birth parents to the child or grandchild of an adoptee.

.121 The agency shall not include or disclose the identity of the adoptee's birth parent or parents in information provided under this section.

HANDBOOK

.13 If adoption records are subpoenaed the matter should be referred to legal counsel.

.14 The agency shall arrange for contact among an adult adoptee, his/her birth parent and any living adoptive parent as required by Civil Code Section 230.6.

HANDBOOK

•141 The department interprets the requirement in MPP Section 70-303.14 to mean any one living adoptive parent.

•142 Civil Code Section 230.6 reads in part:

"Civil Code Section 230.6: ...if an adult adoptee, his or her natural parent, and any living adoptive parent have each filed a written waiver of his or her rights with respect to the confidentiality of adoption records with the agency, the agency may arrange for contact among those persons. The agency shall not solicit, directly or indirectly, the execution of such a waiver."

•2 The agency shall provide copies of the medical report which is required by Civil Code Section 224t.

HANDBOOK

•21 Civil Code Section 224t reads as follows:

"Civil Code Section 224t: Notwithstanding any other provision of law, the State Department of Social Services or the licensed adoption agency which made the report required by Section 224s shall, upon the request of a person who has been adopted pursuant to this chapter and who has attained the age of 18 or who presents a certified copy of his or her marriage certificate, or upon the request of the adoptive parent of a person under the age of 18 who has been adopted pursuant to this chapter, provide that person with a copy of the medical report required by Section 224s in the manner that the department shall prescribe by regulation. A person who is denied access to a medical report pursuant to the regulations adopted pursuant to this section may petition the superior court for review of the reasonableness of the department's or licensed adoption agency's decision. The names and addresses of any persons contained in the report shall be removed therefrom unless the person requesting the report has previously received the information pursuant to subdivision (b) of Section 227.

•22 The agency shall delete the names and addresses of any persons contained in the report unless the person requesting the report has previously received the information pursuant to Civil Code Section 227(b).

- .23 If the requester has attained the age of 21 and if the information would cause emotional trauma in a reasonable person, the agency shall inform the requester that the report contains sensitive material and that the requester has the choice of having the report sent to him/herself or to a medical or mental health professional of the requester's choice.
- .24 If the requester is a person under the age of 21, the agency shall inform the requester that the report contains sensitive material and that the report may only be released to a medical or mental health professional of the requester's choice.
- .25 The agency shall transmit to the requester any medical information submitted by a birth parent subsequent to the original medical report provided to the requester.
- .3 The agency shall disclose to the adoptee upon his/her request the name and most current address of a birth parent of an adoptee whose relinquishment for or consent to adoption was signed on or after January 1, 1984, in accordance with the provisions of Civil Code Section 227(b):

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- .31 Civil Code Section 227(b) reads in part:

"Civil Code Section 227(b): The State Department of Social Services or a licensed adoption agency shall, (1) upon request of a person who has been adopted pursuant to this chapter and who has attained the age of 21, disclose the identity of the birth parent or parents of the person and the most current address of the birth parent or parents as shown in the records of the department or licensed adoption agency, if the birth parent or parents have indicated consent to the disclosure in writing; and (2) upon request of the birth parent of a person who has been adopted pursuant to this chapter and who has attained the age of 21, disclose the adopted name of the adoptee and his or her most current address as shown in the records of the department or licensed adoption agency if the adult adoptee has indicated in writing, pursuant to the registration program developed by the State Department of Social Services, that he or she wishes his or her name and address to be disclosed. The department or licensed adoption agency also shall disclose the identity of a birth parent and his or her most current address as

shown in the records of the department or licensed adoption agency upon the request of the adoptive parent of a person under the age of 21 who has been adopted pursuant to this chapter, upon the finding by the department that a medical necessity or other extraordinary circumstances justify the disclosure....

The provisions of this subdivision shall not be applicable where a birth parent or an adoptee has indicated that he or she does not wish his or her name or address disclosed."

- 4 The agency shall disclose to a birth parent upon his/her request the name and most current address of an adoptee over the age of 21 whose relinquishment for or consent to adoption was signed on or after January 1, 1984, when the adult adoptee has given written consent to the disclosure in accordance with Civil Code Section 227(b).

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- 41 A partial quote of Civil Code Section 227(b) is located at MPP Section 70-303.31.

- 5 The agency shall disclose the identity of a birth parent and his/her most current address upon the request of an adoptive parent of an adoptee under the age of 21 whose relinquishment for or consent to adoption was signed on or after January 1, 1984, upon finding by the department or agency that a medical necessity or other extraordinary circumstance justifies the disclosure, if the birth parent has given written permission for such disclosure in accordance with Civil Code Sections 224v and 227b.

- 51 The agency shall not disclose the identity of a birth parent who has indicated that he/she does not wish his/her identity so disclosed.

- 6 The agency shall comply with Civil Code Section 227aaa and Welfare and Institutions Code Section 10852.

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- 61 Civil Code Section 227aaa permits the agency to furnish information relating to any adoption petition to the juvenile court, to any county welfare department whenever it is believed the welfare of a child will be promoted thereby.

- .62 Welfare and Institutions Code Section 10852 requires all persons who are subject to investigation or supervision by the department, or who are connected with any institution subject to such investigation or supervision, or who are in any way responsible for the administration or expenditure of funds which are subject to investigation or supervision by the department, shall furnish to the department such information and statistics as it may request or require, and shall allow the department free access to all such institutions and to all records of such institutions and persons.

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- .7 The agency shall comply with the provisions of Civil Code Section 230.7:

- .71 Civil Code Section 230.7 reads in pertinent part:
"Civil Code Section 230.7: (a) Notwithstanding any other provision of law, the State Department of Social Services and any licensed adoption agency shall release any letters, photographs, or other items of personal property in their possession to any adoptee, birth parent, or adoptive parent, upon written request. The material may be requested by any of the following parties:

- (1) The adoptee, provided that he or she has attained the age of 18 years.
- (2) The adoptive parent or parents, on behalf of an adoptee under the age of 18 years as long as instructions to the contrary have not been made by the depositor.
- (3) The birth parent or parents.

Notwithstanding any other provision of law, all identifying names and addresses shall be deleted from the letters, photographs, or items of personal property before delivery to the requester.

- (b) Any letters, photographs, or other items of personal property deposited on or after January 1, 1985, shall be accompanied by a release form or similar document signed by the person depositing the material,

released. At its discretion, the department or licensed adoption agency shall have the right to refuse for deposit items of personal property that, because of value or bulk, would pose storage problems.

(c) Notwithstanding subdivision (a), only the following photographs deposited before January 1, 1985, shall be released:

(1) Photographs of the adoptee which have been requested by the adoptee.

(2) Photographs which have been deposited by the adoptee, the adoptive parent or parents, or the birth parent or parents, and for which there is a letter or other document on file indicating that person's consent to the release of the photographs.

. . .

(e) As used in this section, 'photograph' means a photograph of the person depositing the photograph or the person making the request for release."

.8 (Reserved)

.9 Services provided to adoptees, birth parents, and adoptive parents following the finalization of an adoption shall include the provision of information about statutory and regulatory requirements regarding the release of information from the adoption case record.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10850(d).

Reference: Welfare and Institutions Code Sections 10553, 10850(d), and 10852; Civil Code Sections 224s, 224t, 224v, 227(b), 230.6, 230.7, 1798.24(r)(8), and 227aaa.

Adopt new chapter heading to read:

Chapter 70-400 - Procedures for Independent Adoptions

Adopt new Section 70-401 to read:

70-401 AGENCY RESPONSIBILITY

70-401

- .1 In an independent adoption, the agency shall investigate the adoption after the petition has been filed and file a court report recommending whether to grant the petition to adopt in accordance with Civil Code Sections 226.2, 226.5, and 226.6.

HANDBOOK

- .11 Civil Code Sections 226.2, 226.5, and 226.6 read as follows:

"Civil Code Section 226.2: In all cases of adoption in which no agency licensed to place children for adoption is a party, it shall be the duty of the State Department of Social Services or of the licensed county adoption agency to accept the consent of the natural parents to the adoption of the child by the petitioners and to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child, prior to filing its report with the court."

- .12 "Civil Code Section 226.5: The State Department of Social Services or licensed county adoption agency shall interview the petitioners and all persons from whom consent is required and whose addresses are known as soon as possible and in the case of residents of California within 45 working days, excluding legal holidays, after the filing of the adoption petition. In order to facilitate these interviews, at the same time the petition is filed, the petitioner shall file with the district office of the State Department of Social Services or the licensed county adoption agency responsible for the investigation of the adoption, a copy of the petition together with the names, addresses, and phone numbers of all parties to be interviewed, if known."

- .13 "Civil Code Section 226.6: (a) In those cases in which neither the State Department of Social Services nor an agency licensed by the State Department of Social Services is a party to or joins in the petition for adoption it shall be the duty of the State Department of Social Services or the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, to investigate the proposed adoption and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition. In those cases in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption the report shall be filed immediately. The court may allow such additional time for the filing of the reports as in its discretion it may see fit, after at least five days' notice to the petitioner or petitioners and opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

(b) In those cases in which the State Department of Social Services or an agency licensed by the State Department of Social Services is a party to or joins in the petition for adoption, it shall be the duty of the State Department of Social Services or the agency, whichever is a party to or joins in the petition, to submit a full report of the facts of the case to the court. The State Department of Social Services may also submit a report in those cases in which an agency licensed by the department to place children in homes for adoption is a party or joins in the petition for adoption."

- .14 In the event that two separate agencies receive copies of petitions to adopt the same child, the agencies shall:

.141 Exchange information on the two petitions, and

.142 Determine which of the petitioners will best meet the needs of the child, and

.143 Report to the court.

- .2 The agency shall make a written assessment of the adoptive petitioners to determine their suitability as adoptive parents.

- .21 The agency shall initiate the assessment immediately upon receipt of an endorsed copy of the adoption petition.

•3 The agency shall conduct interviews as necessary to make the assessment.

•31 The agency shall conduct at least one interview in the home of the petitioners as soon as possible and no later than thirty days after the receipt of an endorsed copy of the adoption petition.

•32 The agency shall conduct separate interviews with each petitioner, if there is more than one petitioner.

•33 The agency shall conduct a joint interview with the petitioners, if there is more than one petitioner.

•34 The agency shall conduct interviews with all other adults and have contact with all children who live in the petitioner's home.

•35 The agency shall make another contact with the petitioners if the court report is submitted more than three months after the last contact with the petitioners.

•4 The agency shall discuss the following information with the petitioners:

•41 Approximate time it may take to complete each stage of the adoption process

•42 Statutory and regulatory requirements for adoption including confidentiality of adoption records

•43 The provisions of Civil Code Section 226.10 and Penal Code Section 280 regarding the concealment of a child.

HANDBOOK

•431 Civil Code Section 226.10 reads as follows:

"Civil Code Section 226.10: During the pendency of an adoption proceeding, the child proposed to be adopted shall not be concealed within the county in which the adoption is pending; and shall not be removed from such county, unless the petitioners or other interested persons first obtain permission for such removal from the court after giving advance written notice of intent to obtain such permission to the State Department of

Social Services or to the licensed adoption agency responsible for the investigation of the proposed adoption. Upon proof of the giving of the notice, permission may be granted by the court if, within a period of 15 days from and after the date of the giving of the notice, no objections have been filed with the court by the State Department of Social Services or the licensed adoption agency responsible for investigation of the proposed adoption. If objections are filed within such period by the department or the adoption agency, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for such removal reasonable notice of such hearing by certified mail to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to such limitations as appear to be in the best interest of the child.

This section does not apply in any of the following situations:

- (a) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, provided that a notice of recommendation of denial of petition has not been personally served on the petitioners or the court has not issued an order prohibiting the removal of the child from the county pending consideration of any of the following:
 - (1) The suitability of the petitioners.
 - (2) The care provided the child.
 - (3) The availability of the legally required consents to the adoption.
- (b) In a proceeding for the adoption of a child by his stepparent where one natural or adoptive parent retains his or her custody and control of the child.

- (c) Where the child has been returned to and remains in the custody and control of his or her natural parent or parents.
- (d) Where the child has been relinquished for adoption pursuant to Section 224m and written consent for the removal of the child is obtained from the State Department of Social Services or the licensed adoption agency responsible for the child.

In no event, nor for any period of time, shall a child who has been relinquished for adoption pursuant to Section 224m be removed from the county in which the child was placed by any person who has not petitioned to adopt the child without first obtaining the written consent of the State Department of Social Services or the licensed adoption agency responsible for the child.

A violation of this section constitutes a violation of Section 280 of the Penal Code.

Neither this section nor Section 280 of the Penal Code shall be construed to render lawful any act which is unlawful under any other applicable provision of law."

.432 Penal Code Section 280 reads as follows:

"Penal Code Section 280: Every person who willfully conceals a child in violation of Civil Code Section 226.10 is punishable by imprisonment in the county jail for not more than one year if the child is concealed within the county in which the adoption proceeding is pending or in which the child has been placed for adoption, or by imprisonment in the state prison or county jail for not more than one year if the child is taken outside the state."

.44 The agency shall inform the petitioners of the law's requirement to file a report with the court on all expenditures paid by them or on their behalf in connection with the birth, placement, and adoption of the child in accordance with Civil Code Section 224r.

•441 Civil Code Section 224r reads as follows:

"Civil Code Section 224r: The petitioners in any proceeding seeking the adoption of a minor child shall file with the court a full accounting report of all disbursements of anything of value made or agreed to be made by them or on their behalf in connection with the birth of the child, the placement of the child with the petitioners, any medical or hospital care received by the natural mother of the child or by the child in connection with its birth, any other expenses of either natural parent of the child, or the adoption. The accounting report shall be under penalty of perjury and shall be submitted to the court on or before the date set by the court for the hearing on the adoption petition, unless an extension of time is granted by the courts.

The accounting report shall be itemized in detail and shall show the services relating to the adoption or to the placement of the child for adoption which were received by the petitioners, by either natural parent of the child, by the child, or by any other person for whom payment was made by or on behalf of the petitioners. The report shall also include the dates of each payment, the names and addresses of each attorney, doctor, hospital, licensed adoption agency, or other person or organization who received any funds of the petitioners in connection with the adoption or the placement of the child with them, or participated in any way in the handling of such funds, either directly or indirectly.

The provisions of this section shall not apply to an adoption by a stepparent where one natural or adoptive parent retains his or her custody and control of the child."

•45 The agency shall inform the petitioners of the provisions of Civil Code Section 224v.

HANDBOOK

- 451 The content of Civil Code Section 224v is located at MPP Section 70-403.732.

•5 The agency shall obtain the following documentation from the petitioner to facilitate the assessment:

•51 Authorization for the release of medical and employment information on the petitioner

•52 Report of medical examination on the petitioner

•521 The medical report shall be signed by a licensed physician.

•522 The medical examination required by this section shall have been conducted no earlier than six months prior to the filing of the petition.

•523 The agency shall waive the medical report when the petitioners are members of a religious sect, denomination, or organization which, in accordance with its creeds or tenets, relies on faith and prayer for healing.

•53 School reports for all school age children residing in the home of the petitioner.

•6 The assessment of the petitioner shall include:

•61 Obtaining the following identifying information:

•611 Name, date of birth and sex

•612 Current address and telephone number

•613 Blood relationship to child, if any

•614 Race and ethnic background information

•615 Religion

•616 Current employment information

•617 Verification of marital status, if relevant

•62 Evaluation of:

•621 General characteristics

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General characteristics may include:

- (a) The manner in which the petitioner has dealt with difficult or stressful life situations
- (b) Relationships within the petitioner's family
- (c) Ability to assume responsibility for the care, guidance, and protection of a child
- (d) Emotional flexibility and stability
- (e) Self-esteem
- (f) Coping ability
- (g) The manner in which normal hazards and risks are accepted
- (h) Motivation for adoption
- (i) Ability to have a parent-child relationship and to enjoy a child
- (j) Flexibility regarding the petitioner's expectations of a child

•622 Feelings and attitudes which may impact the adoption

HANDBOOK

Feelings and attitudes may include:

- (a) The inability of the petitioner to conceive children when this is a factor in the adoption
- (b) Children born to unmarried birth parents
- (c) Sharing the facts surrounding the adoption with the adopted child

- (d) The possible search by birth parents for the adoptee and the possible search by the adoptee for birth parents.

•623 Social background

HANDBOOK

- (a) Participation in community activities
- (b) Peer relationships.

•624 Educational background

•625 Financial stability

•626 Work adjustment

•627 Adequacy of housing.

HANDBOOK

- (a) Evaluation of adequacy of housing may include evaluation of the following conditions:
 - (1) Sanitation
 - (2) Safety
 - (3) Sleeping accommodations
 - (4) Play area.

•7 The agency shall complete the assessment and report to the court with a recommendation within 180 days of the filing of the adoption petition unless an extension of time has been granted by the court.

•8 The agency shall assess the child. The assessment shall include the child's:

•91 Background

•82 Development

•83 Health

HANDBOOK

- 831 The agency should ensure that the report on the child's health contains sufficient information to enable the agency to complete the report required by Civil Code Section 224s(a).

•84 Adjustment in the home of the petitioners

•85 Other examinations and reports as necessary.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Civil Code Sections 226.2, 226.5, 226.6, 224s, and 275.

Adopt new Section 70-402 to read:

70-402 PREREQUISITES TO CONSENT

70-402

- .1 Prior to accepting a consent to adoption, the agency representative shall:
 - .11 Obtain information from the birth parent regarding the child's background, reasons for choosing adoption for the child, and the birth parent's attitude toward the adoption
 - .111 In the event that the child who is the subject of the consent to adoption comes within the provisions of the ICWA, the consent shall be taken in accordance with MPP Section 70-805.1.
 - .12 Obtain written authorization from the birth parent for the release of medical information
 - .13 Obtain written authorization from the birth parent for the petitioners to obtain medical care and/or treatment for the child
 - .14 Verify the marriages and dissolutions of marriage of the birth mother as required by MPP Section 70-204.15
 - .15 Interview the petitioners
 - .16 Determine that the birth parent voluntarily chose the plan to place the child with the petitioners for the purpose of adoption
 - .17 Determine whether the child and the adoptive family can benefit from adoption.
- .2 The agency representative shall determine that the consenting parent has the ability to understand the nature, content, and effect of signing a consent to adoption.
 - .21 If the agency representative determines that the parent may not have the ability to understand the content, nature, and effect of signing a consent to adoption, the agency representative shall refer the parent to a licensed physician or to a licensed clinical psychologist for an evaluation of the parent's ability to so understand.

- 211 The agency shall accept the consent to adoption only after the evaluation establishes that the parent has the ability to understand the nature, content, and effect of signing a consent to adoption.
- 3 The agency shall accept the mother's consent to the adoption of a newborn only after she has been medically discharged from the hospital.
- 31 In those cases in which the birth mother is hospitalized more than five days after the birth of the child, the agency shall accept the mother's consent only after obtaining a written statement from the attending physician that the birth mother is competent to consent to the adoption of the child.
- 4 The agency shall accept a consent to adoption from a parent who is receiving inpatient or outpatient psychiatric treatment only after the parent's ability to understand the nature, content, and effect of signing a consent to adoption has been established by a written evaluation signed by the attending physician or licensed clinical psychologist.
- 5 The agency shall accept a consent to adoption from a parent for whom the court has appointed a conservator only if the order of conservatorship specifically allows such a transaction and the parent's ability to understand the nature, content, and effect of signing a consent to adoption has been established by a written evaluation signed by a licensed physician or licensed clinical psychologist.

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- 51 The consent to adoption should be signed as soon as possible after the verification of the parent's ability to understand the nature, content, and effect of a consent to adoption is obtained and preferably never later than 30 days from the date of the evaluation upon which the determination is based.
- 52 Consultation by a parent with a physician or licensed clinical psychologist for reasons such as marital, family, or educational counseling is not considered to be treatment requiring verification of the parent's ability to understand the nature, content, and effect of a consent to adoption.

- 6 The agency shall accept a consent to adoption from a parent who is a patient in or on leave from a psychiatric facility only if the parent's ability to understand the nature, content, and effect of signing a consent to adoption has been established by a written evaluation signed by the attending physician or licensed clinical psychologist.
- 7 In those cases in which the agency is unable to accept a consent, the agency shall advise the petitioners and their attorney that legal action is necessary to free the child from parental custody and control.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Civil Code Sections 226.1, 226.2, 226.5, and 226.6.

Adopt new Section 70-403 to read:

70-403 ACCEPTING CONSENT

70-403

- .1 The agency shall accept a consent to adoption, signed in California, only on the form prescribed by the department.
 - .11 When taking the consent, the agency shall not cover or delete the names of the adopting parents on the consent to adoption.
 - .12 The signature of the agency representative on a properly completed and signed consent to adoption shall verify that the agency has determined that the consenting parent has the capacity to understand the nature, content, and effect of a consent to adoption.
- .2 If a parent is in another state and the request for consent was not initiated by the agency, the consent shall be accepted when the following conditions are met:
 - .21 The consent is notarized in accordance with Civil Code Section 226.1.

HANDBOOK

- .211 Civil Code Section 226.1 reads in part:

"Civil Code Section 226.1...If the father or mother of a child to be adopted is outside the State of California at the time of signing consent, his or her consent may be signed before a notary or other person authorized to perform notarial acts."

- .22 The consent is properly completed on a form which contains the same content as the form prescribed by the Department in accordance with Civil Code Section 226.1.
- .3 In the event that an agency initiates a consent that is to be signed in another state, the agency shall attempt to utilize the services of an authorized agency in the other state.
 - .31 In the event that there is no authorized agency in the other state, the agency shall send the consent directly to the consenting parent.
 - .32 The agency shall ensure that requests for out-of-state agency services from states which are members of the

Interstate Compact on the Placement of Children (ICPC)
comply with ICPC regulations as contained in Title 22,
California Administrative Code, Sections 30850 through
30859.

HANDBOOK

- 321 Requests for out-of-state agency services from states which are not members of the Interstate Compact on the Placement of Children should be sent to the state department of the other state unless the American Public Welfare Association (APWA) Directory specifies otherwise.
- 322 Requests for service from petitioners living in other countries should be made to the American Branch of the International Social Service (ISS). If ISS is not available, or other agency service is not available, the Department should be asked for assistance.
- 323 The requests to the out-of-state agency should include a clear statement of the services requested including the determination of residence and the reports expected in accordance with California regulations. The out-of-state agency should be requested to determine how the family intends to meet the requirement for a court appearance needed for completion of the adoption unless there has been a prior appearance.
- 324 If the request for service is refused or unreasonably delayed, the out-of-state agency should be requested to provide the names of qualified agencies or practitioners to which the adoptive family may be referred for services.

•4 The agency representative shall give the consenting parent a copy of the completed and signed consent to adoption.

•41 The agency representative shall send within seven days a copy of the signed consent to adoption to the attorney of record in the adoption action.

•5 At the time of signing the consent to adoption, the agency shall advise the consenting parent, verbally and in writing, of the provisions of Civil Code Section 2240.

- 51 Civil Code Section 224o reads as follows:

"Civil Code Section 224o: On or before the time a relinquishment or a consent to adoption is signed, the parent signing the relinquishment or consent shall be advised verbally and in writing by the department or the licensed adoption agency, that he or she may, at any time in the future, request from the agency or the department, all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The parent shall be advised that this information includes, but is not limited to, all of the following: (1) whether the child has been placed for adoption, (2) the approximate date that an adoption was completed, and (3) if the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered."

- 6 At the time of signing the consent to adoption, the agency shall present a statement to the consenting parent as required by Civil Code Section 224v and obtain a response from and the signature of the parent.

HANDBOOK

- 51 This is form AD 908

- 52 The content of Civil Code Section 224v is set forth at MPP 70-403.732.

- 7 At the time of accepting the consent to adoption, the agency shall:

- 71 Inform the birth parent of the child's adjustment with the petitioners and of the suitability of the petitioners to be adoptive parents to the child.

- 72 Inform the birth parents that the law provides for identifying information to be released to adoptees and birth parents when certain conditions are met.

- 73 Provide the birth parents with a copy of the Adoptions Information Act Statement.

HANDBOOK

•731 This is form AD 909

•732 Civil Code Section 224v reads as follows:

"Civil Code Section 224v: (a) The State Department of Social Services shall adopt a statement to be presented to the birth parents ... at the time the relinquishment or consent to adoption is signed and to adoptive parents at the time of the home study which shall, in a clear and concise manner, in words calculated to assure the confidence of the birth parent in the integrity of the adoption process, communicate to the birth parent of a child that is the subject of an adoption petition all of the following facts:

- (1) It is in the best interest of the child that the birth parent keep the department or the licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.
- (2) It is extremely important that the birth parent keep his or her address current with the department or the licensed adoption agency to whom the child was relinquished for adoption in order to permit a response to any inquiries to the Department concerning medical or social history.
- (3) Section 227 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 to petition the State Department of Social Services or the licensed adoption agency that joined in the petition for his or her adoption to obtain the name and address of his or her birth parent; consequently it is of the utmost importance that the birth parent indicate whether or not he or she wishes his or her name and address to be so disclosed by checking the appropriate box provided on the form.

(4) The relinquishment or consent will be filed in the office of the county clerk of the county in which the adoption takes place and that it is not open to inspection by any persons other than the parties to the adoption proceedings, their attorneys, and the State Department of Social Services, except upon order of the judge of the superior court.

(5) The birth parent may change his or her decision as to whether or not he or she wishes his or her name and address disclosed, at any time, by sending a notarized letter to that effect, by registered mail, return receipt requested, to the State Department of Social Services or to the licensed adoption agency that joined in the petition for adoption.

(b) The State Department of Social Services shall adopt a form to be signed by the birth parents at the time the relinquishment or consent to adoption is signed which shall provide as follows:

*Section 227 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 to petition the State Department of Social Services or the licensed adoption agency that joined in the petition for his or her adoption to obtain the name and address of his or her birth parent. Indicate by checking one of the boxes below whether or not you wish your name and address to be so disclosed:

YES

NO

UNCERTAIN AT THIS TIME: WILL NOTIFY AGENCY AT LATER DATE"

.74 In the event the adoption is not finalized, legal responsibility for the child remains with the birth parents and they must either resume care of the child or make an alternative plan such as choosing other adoptive

parents or electing to relinquish the child to a licensed adoption agency.

.741 If the agency is unable to locate the birth parent, the agency shall accept the commitment of the child under Civil Code Section 226c.

HANDBOOK

.742 The requirements of Civil Code Section 226c are found at MPP Section 70-405.131.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Civil Code Sections 197, 224, 224o, 224q, 224v, 226.10, and 224r; and Title 22 California Administrative Code, Sections 30850 through 30859.

Adopt new Section 70-404 to read:

70-404 FINALIZATION OF ADOPTION

70-404

- .1 The agency shall file the court report on an adoption petition within 180 days of the filing of the adoption petition unless an extension of time has been granted by the court.
- .11 The court report shall contain a summary of the facts disclosed by the study, an evaluation of these, and a recommendation as to the granting of the petition.
 - .111 The information which is included in the report shall be current and shall be substantiated in the case record.
- .12 The agency shall file its court report immediately when there is a serious question regarding:
 - .121 The suitability of the petitioners
 - .122 The care which the child is receiving
 - .123 The availability of the consent to adoption.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Civil Code Section 226.6.

Adopt new Section 70-405 to read:

70-405 PROCEDURES IN DENIALS AND COMMITMENTS

70-405

- .1 The agency shall be responsible for reporting to the court and recommending a suitable plan for the care and custody of the child in accordance with Civil Code Section 226a when:
- .11 Prior to the entry of a final decree of adoption the birth parent indicates orally or in writing that he/she wishes to withdraw his/her consent.

HANDBOOK

- .111 Civil Code Section 226a reads in part:

"Civil Code Section 226a: Once given, consent of the natural parents to the adoption of the child by the person or persons to whose adoption of the child the consent was given, may not be withdrawn except with court approval. Request for such approval may be made by motion, or a natural parent seeking to withdraw such consent may file with the clerk of the superior court where the petition is pending, a petition for approval of withdrawal thereof, without the necessity of payment of any fee for the filing of such petition. The petition shall be in writing, and shall set forth the reasons for withdrawal of consent, but otherwise may be in any form.

The clerk of the court shall set the matter for hearing, and shall give notice thereof to the State Department of Social Services, to the persons to whose adoption of the child the consent was given, and to the natural parent or parents by certified mail to the address of each as shown in the proceeding, at least 10 days before the time set for hearing.

...the agency shall, prior to the hearing of the motion or petition for withdrawal, file a full report with the court and shall appear at the hearing to represent the interests of the child.

...If the court finds that withdrawal of the consent to adoption is reasonable in view of all the circumstances, and that withdrawal of the

consent will be for the best interests of the child, the court shall approve the withdrawal of the consent; otherwise the court shall withhold its approval. If the court approves the withdrawal of consent, the adoption proceeding shall be dismissed.

Any order of the court granting or withholding approval of a withdrawal of a consent to an adoption may be appealed from in the same manner as an order of the juvenile court declaring any person to be a ward of the juvenile court.

- .12 The petitioners' desire to withdraw or to secure dismissal of the adoption petition in accordance with Civil Code Section 226b.

HANDBOOK

- .121 Civil Code Section 226b reads:

"Civil Code Section 226b: Whenever, in any adoption proceeding, the petitioners desire to withdraw the petition for the adoption or to dismiss the proceeding, the clerk of the court in which the proceeding is pending shall immediately notify the State Department of Social Services of such action. The State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, shall file a full report with the court recommending a suitable plan for the child in every such case where the petitioners desire to withdraw the petition for the adoption or where the department, the county agency, or licensed private adoption agency recommends that the petition for adoption be denied and shall appear before the court for the purpose of representing the child. Notwithstanding such withdrawal or dismissal by the petitioners, the court may retain jurisdiction over the child for the purpose of making such order or orders for its custody as the court may deem to be in the best interests of the child.

In any adoption proceeding in which the parent has refused to give the required consent or in which the reason or cause for the withdrawal of the

petition or dismissal of the proceeding is the withdrawal of the consent of the natural parent or parents, the court shall order at the hearing the child restored to the care and custody of the natural parent."

- .13 The agency has determined that the best interests of the child would not be served through continued placement with the petitioners and has recommended removal of the child from the home of the petitioners.

HANDBOOK

- .131 Civil Code Section 226c reads in part:

"Civil Code Section 226c: At the hearing, if the court sustains the recommendation that the child be removed from the home of petitioners because the agency has recommended denial or the petitioners desire to withdraw the petition or the court dismisses the petition and does not return him to his parents, the court shall commit the child to the care of the State Department of Social Services, the licensed county adoption agency,...whichever agency made the recommendation, for that agency to arrange adoptive placement or to make a suitable plan...."

- .2 When the agency recommends denial or dismissal of the adoption petition, the agency shall submit a report to the court recommending denial of the petition.

- .21 If the petitioners wish to have the child remain in the home of the petitioners, the agency shall:

- .211 Refer the petitioners to the appropriate agency for foster care licensure as required by Health and Safety Code Section 1500 et seq.

- .212 Discuss with the petitioners and the birth parents the possibility and desirability of securing legal guardianship of the child.

- .22 If the agency believes that return of the child to the parent would place the child in danger of cruelty, neglect, abuse, or depravity, the agency shall make a referral to the county child welfare unit as required by Penal Code Section 11166.

- 23 In cases in which the agency recommends that the child be committed to the agency, the agency shall recommend to the court a plan for committing the child to the agency.
- 231 The agency shall develop a plan and report to the court as soon as it is determined that commitment to the agency will be recommended.
- 232 The agency's responsibility for the child shall be the same as for any other child accepted for assessment and adoptive planning.
- 233 Temporary and permanent plans developed by the agency shall require prior approval by the department.
- 234 Commitment of the child to the agency shall continue until the court terminates the commitment order.

HANDBOOK

- 235 Welfare and Institutions Code Section 16106 reads as follows:

"Welfare and Institutions Code Section 16106: The state shall reimburse each county for the costs of care of any child placed under the custody of a county department pursuant to Section 226 of the Civil Code. County claims for reimbursement of expenses incurred pursuant to Section 226c of the Civil Code shall be filed with the department at the time and in the manner specified by the department, and the claims shall be subject to audit by the department. Whenever a claim covering a prior fiscal year is found to have been in error, adjustment may be made on a current claim without the necessity of applying adjustment to the appropriation for the prior fiscal year."

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Civil Code Sections 226a, 226b, and 226c; and Health and Safety Code Section 1500.

Adopt new Chapter heading to read:

Chapter 70-500 RELINQUISHMENT SERVICES AND PROCEDURES FOR AGENCY ADOPTIONS

Adopt new Section 70-501 to read:

70-501 SERVICES TO PARENTS CONSIDERING RELINQUISHMENT 70-501

(Reserved for new relinquishment regulations)

Adopt Section 70-502 to read:

70-502 RELINQUISHMENT FORMS AND PROCEDURES

70-502

(Reserved for new relinquishment regulations)

Adopt Section 70-503 to read:

70-503 REVOCATION AND RESCISSION OF RELINQUISHMENT

70-503

- .1 An oral or written declaration by the relinquishing parent, after the relinquishment has been signed but not filed with the department, that he/she wishes to revoke the relinquishment and/or to have the relinquished child returned, shall be treated as an expression of intent to revoke the relinquishment.
- .11 Upon receipt of such declaration the agency shall:
 - .111 Cease all adoptive planning for the child
 - .112 Give the parent a revocation form prescribed by the department
 - .113 Advise the parent that he/she has 14 days from the date the agency provides the revocation form in which to provide the agency with a written request for revocation
 - .114 Specify the date by which the form must be completed and returned to the agency.
- .2 The agency shall return the child to the relinquishing parent who gave physical custody of the child to the agency within a period not to exceed seven working days following receipt of the parent's completed revocation form.
 - .21 The time and place for return of the child shall be mutually agreed upon by the agency and the parent.
 - .22 If the parent not having physical custody of the child has also relinquished the child, that parent shall be notified immediately that the child is being returned to the revoking parent.
 - .23 The agency shall obtain a signed statement from the revoking parent that physical custody of the child has been returned to him/her.
 - .24 At the time of the child's return to the revoking parent the agency shall inform the parent of available public and community resources.
- .3 When a relinquishment is revoked by a parent who did not give physical custody of the child to the agency, the agency shall

initiate court proceedings to determine custody of the child and whether the plan for adoption can proceed.

•31 If the other parent has also relinquished the child, that parent shall be notified immediately of the revocation and the initiation of court proceedings.

•4 The agency shall mark "VOID" across the face of all copies of the relinquishment signed by the revoking parent.

•41 The agency shall file the revoked relinquishment in the adoption case record.

•5 If the child is a dependent of the court, or the agency believes return of the child would place the child in danger of neglect, cruelty, depravity, or physical abuse the agency shall:

•51 Make an immediate referral to the appropriate county child welfare services unit

•52 Within 72 hours of the request for revocation, notify the parent requesting revocation in writing of:

•521 The reason for the agency's refusal, and

•522 The name, address, and telephone number of the agency to which the child was referred.

•6 A relinquishment which has been filed with the department shall be rescinded only as specified at Civil Code Section 224m.

HANDBOOK

•61 Civil Code Section 224m reads in part:

"Civil Code Section 224m: ...Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the adoption agency and the parent or parents relinquishing the child."

•7 The agency shall treat a written or oral declaration by the relinquishing parent, after the relinquishment has been filed with the department, that he/she wishes to rescind his/her relinquishment and/or to have the child returned, as a request for rescission.

•71 Upon such written or oral declaration by the parent, the agency shall:

•711 Cease adoptive planning until the agency reaches a decision regarding the request

•712 Advise the parent that he/she has 14 days from the date the agency provides the rescission form in which to request the rescission in writing

•713 Give the parent a rescission form prescribed by the department

HANDBOOK

a) This is form AD 508

•714 Specify the date by which the parent must return the rescission form to the agency

•715 Inform the parent that if the form is not completed and returned to the agency by the specified date, the request for rescission shall be nullified.

•72 If the agency agrees to rescind the relinquishment, the agency shall:

•721 Mutually agree with the parent regarding the time and place for return of the child

(a) The agency shall return the child no later than seven working days from the time the decision to rescind is made.

•722 Mark "VOID" on all copies of the relinquishment form signed by the rescinding parent

•723 File the rescinded relinquishment in the case record

•724 Obtain a signed statement from the rescinding parent that physical custody of the child was returned to him/her

•725 Notify any other relinquishing parent of the rescission and inform him/her that he/she may also rescind his/her relinquishment

- .726 Notify the Department of the rescission within three working days from the date the agency agrees to the rescission
- .727 Notify the Juvenile Court, if the child is a dependent of the court, of the agency's decision to rescind the relinquishment and recommend the return of the child to the rescinding parent.
- .73 If the agency's decision is not to rescind, the agency shall:
 - .731 Have the decision reviewed by the agency director or his/her designee
 - .732 Provide a copy of the agency's decision not to rescind the relinquishment and the reasons for the agency's decision to the rescinding parent within three working days of the agency's decision
 - .733 Send a copy of the agency's decision to the department within three working days of the agency's decision
 - .734 Notify the Juvenile Court, if the child is a dependent of the court, of the parent's request to have the relinquishment rescinded and of the agency's decision not to rescind.
- .74 In considering a relinquishing parent's request to have the relinquishment rescinded, the agency shall:
 - .741 Provide the parent the opportunity to present to the agency the reason for rescission of the relinquishment and the parent's plan for care of the child.
 - .742 Consider the needs of the child, the adequacy of the parent's plan and the public and community resources and services available to assist the parent in caring for the child.

Authority: Welfare and Institutions Code Section 10553 and Health and Safety Code Section 1530.

Reference: Civil Code Section 224m.

Adopt Section 70-504 to read:

70-504 ASSESSMENT OF THE CHILD

70-504

- .1 The agency shall assess each child accepted for adoption services. The assessment shall be in writing and shall include but not be limited to:
 - .11 Identification of the child, including the child's:
 - .111 Sex
 - .112 Age
 - .113 Race
 - .114 Ethnicity
 - .12 Developmental and behavioral history, including developmental assessment for a child 0-4 years of age
 - .13 Scholastic history and evaluation, when it exists
 - .14 Family life history
 - .15 The results of a psychological evaluation for children 0-4 years of age, when it exists
 - .151 The agency shall obtain the results of a psychological evaluation for all children over the age of 4 years.
 - .16 Designation of the child as special needs, when applicable, and the reasons for such a designation
 - .17 Religion
 - .18 Assessment of the child's readiness for adoption and willingness to be adopted.
- .2 The agency shall obtain:
 - .21 A certified copy of the child's birth certificate
 - .22 Complete information regarding the legal status of the child
 - .23 Medical reports

- 231 The information contained in the medical report shall be sufficient to enable the agency to comply with the requirements of Civil Code Section 224s(a) as set forth at MPP Section 70-507.51.
- 24 Dental reports, when they exist
- 25 Authorizations for the release of:
 - 251 Medical information
 - 252 Dental reports, when relevant
 - 253 Scholastic information, if relevant
 - 254 Psychological information, if relevant
 - 255 Medical, psychological and social information on birth parents
- 26 Authorization for the child's medical care prior to relinquishment
- 3 The agency shall provide services to children who are accepted for adoption planning, including but not limited to:
 - 31 Preventive and remedial medical care, including mental health services
 - 32 Obtaining medical reports and the medical background of the child
 - 33 Services pertaining to the placement of the child for adoption, the emotional preparation of the child for adoption and working through losses and separations
 - 34 Services pertaining to supervision of the adoptive placement
 - 35 Preparation and completion of the Adoption Placement Agreement
 - 36 Preparation and completion of the Adoption Assistance Agreement, when necessary
 - 37 Determination of the AAP payment level, when necessary
 - 38 Recertification of the Adoption Assistance Agreement, when necessary

•39 Freeing the child for adoption.

Authority: Welfare and Institutions Code Sections 10553 and 16118; and Health and Safety Code Section 1530.

Reference: Civil Code Sections 224s, 224n, 226.6, and 276.

Adopt Section 70-505 to read:

70-505 APPLICATION TO ADOPT

70-505

- 1 The agency shall require a written application prior to
conducting an assessment of the applicant.

Authority: Welfare and Institutions Code Section 10553, and
 Health and Safety Code Section 1530.

Reference: Civil Code Section 224n.

Adopt Section 70-506 to read:

70-506 ASSESSMENT OF THE APPLICANT

70-506

- 1 The agency shall assess each applicant seeking to adopt children for whom the agency needs adoptive parents in order to determine the applicant's suitability as a prospective adoptive parent.
- 11 The agency shall have the authority to make a determination that the applicant shall not be approved for the adoptive placement of a child at any point in the assessment process.
- 2 The assessment shall include:
 - 21 At least one interview with the applicant in the home of the applicant
 - 22 Separate interviews with each applicant
 - 23 A joint interview when there is more than one applicant
 - 24 Interviews with all other individuals residing in the home
 - 25 Additional interviews as necessary.
- 3 The agency may reduce the number of interviews required for the assessment of the applicant when:
 - 31 The applicant has successfully completed the adoption of another child in California, including assessment of the applicant and supervision by an agency, within the past five years, or
 - 32 The child who is placed for adoption is a foster child of the applicant whose foster care placement has been supervised by an agency for at least one year prior to the signing of the adoptive placement agreement.

HANDBOOK

- 321 This includes the foster care placement of children who are relatives of the applicant whose placement has been supervised by an agency for at least one year prior to the signing of the

adoptive placement agreement. This type of placement may be exempt from licensure.

•4 The assessment of an applicant, including any children or adults residing in the home, shall include:

•41 Obtaining the following identifying information:

•411 Name, date of birth, and sex

•412 Current address and telephone number

•413 Blood relationship to child, if any

•414 Race and ethnic background information

•415 Religion

•416 Current employment information

•417 Verification of marital status, if relevant

(a) Verification of termination of all prior marriages

•418 Personal and/or biological relationship of the applicant to other individuals residing in the applicant's home.

•42 Evaluation of:

•421 General characteristics

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General characteristics may include:

- (a) The manner in which the applicant has dealt with difficult or stressful life situations
- (b) Relationships within the applicant's family
- (c) Ability to assume responsibility for the care, guidance, and protection of a child
- (d) Emotional flexibility and stability
- (e) Self-esteem

- (f) Coping ability
- (g) The manner in which normal hazards and risks are accepted
- (h) Motivation for adoption
- (i) Ability to have a parent-child relationship and to enjoy a child
- (j) Flexibility regarding the applicant's expectations of a child
- (k) Feelings and attitudes regarding:
 - (1) Inability of the applicant to conceive children when this is a factor in the application
 - (2) Birth parents
 - (3) Sexuality
 - (4) Children who have been physically or emotionally neglected, physically or sexually abused, or abandoned
 - (5) Sharing the facts surrounding the adoption with the adopted child
 - (6) Children who have physical, emotional and/or mental handicaps
 - (7) The search for birth parents or other birth relatives by the adoptee
 - (8) The search for the adoptee by birthparents or other birth relatives
 - (9) Sensitivity to other ethnic, racial and cultural groups
 - (10) The ability of the applicant to accept adoption as a life-long process.

•422 Social background

- (a) Participation in community activities
- (b) Peer relationships

•423 Educational background

•424 Financial stability

•425 Work adjustment

•426 Adequacy of housing

HANDBOOK

- (a) Evaluation of adequacy of housing may include evaluation of the following:

- (1) Sanitation
- (2) Safety
- (3) Sleeping accommodations
- (4) Play area

•5 The agency shall inform the applicant of the following:

•51 The availability of a grievance review process through the agency

•52 The requirements of Civil Code Section 224v as set forth at MPP 70-403.732.

•521 The agency shall provide the adoptive applicant with a copy of the Adoptions Information Act Statement.

HANDBOOK

- (a) This is form AD 908

•53 Laws relating to the sharing of medical information

•54 Laws pertaining to reunion.

HANDBOOK

- 541 "Reunion" refers to postadoption contact as authorized by Civil Code Sections 230.6, 230.8, and 227b.

•6 Services provided to adoptive applicants shall include but not be limited to:

•61 Information and counseling regarding the approximate time it may take to complete the adoption process

•62 Information regarding statutory and regulatory requirements for adoptions

•63 Information and counseling regarding the necessity for a community care facility license in the event that a child is placed who has not been legally freed for adoption

•64 Information and counseling regarding children available for adoption through the agency

•65 Information regarding agency fees

•66 Information about the availability of national, state and local adoption exchanges and photo-listing albums

•67 Written information regarding available grievance procedures.

•7 The agency shall obtain the following for all applicants:

•71 Authorization for the release of medical and employment information, if necessary

•72 Authorization for release of financial information, if necessary

•73 Report of a medical examination on each applicant

•731 The report shall be signed by a licensed physician or a nurse practitioner practicing under a licensed physician.

•732 The report shall be completed prior to the placement of a child for adoption but not more than one year prior to the commencement of the assessment.

- .74 A certificate that the individual is free from communicable tuberculosis for each adult residing in the home
- .75 School reports for all children residing in the home of the applicant, as appropriate
- .76 At least three letters of reference regarding the suitability of the applicant as an adoptive parent
 - .761 The agency shall be permitted to substitute face-to-face interviews with references for letters of reference.
 - (a) Interviews with references shall be documented in the adoption case record.
- .8 The agency shall provide the applicant with written notification of its decision regarding the adoptive placement of a child with the applicant.
- .81 Notification of the agency's decision not to approve the applicant for the adoptive placement of a child shall include identification of the factors, such as those listed at MPP Section 70-506.4 through .426, which led to the agency's decision.
- .811 The agency shall inform the applicant of the agency's grievance review procedure and the right of the applicant to file a grievance with the agency within 30 days of receipt of the agency's decision.

Authority: Welfare and Institutions Code Sections 10553 and 16118; and Health and Safety Code Section 1530.

Reference: Civil Code Sections 224n and 276.

Adopt new Section 70-507 to read:

70-507 PLACEMENT

70-507

- .1 The agency shall not place a child for adoption until the child has been legally freed for adoption unless:
 - .11 The child is placed in an assessed and approved adoptive home with the approval of the agency's administrator, and
 - .111 The birthmother and presumed father, if any, have signed a relinquishment for adoption and
 - .112 The relinquishment has been filed with the department, and
 - .113 An action to terminate the rights of any alleged natural father or fathers under Civil Code Sections 7017 or 7006 is pending.
- .2 In choosing adoptive parents for a child, the agency shall:
 - .21 Give priority to approved applicants who most nearly match in the aggregate the racial background, ethnic heritage, religion and cultural heritage of the child. Geographic proximity as to where the child currently resides shall be considered only as it relates to the choice between two or more otherwise suitable applicants. Placement of children shall not be delayed for a time to exceed six months solely for the purpose of meeting the matching requirement of this Section.
 - .22 Select from its approved applicants or those of other licensed adoption agencies in or out of county or state the family which is best able to meet the child's needs.
 - .23 The agency shall make available counseling, information, and educational services to adoptive parents whose racial, ethnic, or cultural background is different from the child's in an effort to assist the adoptive family to meet the child's needs and to ensure that the family is sensitive as to how the child may be perceived by others.
- .3 Exceptions to the priority placement requirement shall be permitted in the following instances:

- .31 In accordance with the expressed wishes of the relinquishing parent
- .32 When a child has established significant emotional ties with a foster family of a different racial, ethnic, cultural, or religious background and the agency has determined that it would be detrimental to the child to be removed from the family.

HANDBOOK

- .321 Welfare and Institutions Code Section 366.25(k) reads as follows: "Welfare and Institutions Code Section 366.25(k): Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, 'preference' means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child."

- .4 A child who is subject to the ICWA shall be placed for adoption in accordance with the requirements specified at MDP Section 70-907.
- .5 At the time of the adoptive placement, an adoptive placement agreement shall be signed by the agency representative and each prospective adoptive parent.
- .51 The placement agreement shall include, but not be limited to, statements regarding:
 - (a) The rights and responsibilities of the agency and the prospective adoptive parents
 - (1) The child's legal status, including court dependency and any terms and/or conditions

of the adoptive placement of a child not yet freed for adoption

- (b) The agency's responsibility to retain custody of the child and to supervise the adoptive placement until the granting of either an interlocutory or final decree of adoption in accordance with Civil Code Section 224n(a)

HANDBOOK

- (1) Civil Code Section 224n(a) reads as follows:

"Civil Code Section 224n(a): The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights shall be responsible for the care of the child, and shall be entitled to the exclusive custody and control of the child until either an interlocutory decree of adoption or final decree of adoption. Any placement for temporary care, or for adoption made by the department or a licensed adoption agency, may be terminated at its discretion at any time prior to the granting of an interlocutory decree of adoption or final decree of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the agency.

No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both of his parents and referred to the department or a licensed adoption agency for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department or licensed adoption agency. After the petition for adoption has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents

only with the approval of the court, upon motion by the department or a licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or a licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the superior court may nevertheless decree the adoption if it finds that the refusal to consent is not in the best interest of the child."

- (2) Civil Code Section 224n(b) reads in part: "Civil Code Section 224n(b): The petitioner for adoption and the...agency having exclusive custody of the child may jointly petition the court for an interlocutory decree of adoption for a child eligible for aid under the Adoption Assistance Program. The court receiving such a petition may grant an interlocutory decree of adoption, which gives the petitioner legal custody of the child, if the court finds the child to be free for adoption, and which shall become a final decree of adoption upon the expiration of not more than 12 months from entry, unless a motion to set aside this decree, or to shorten or extend the interlocutory period, has been filed with the court.

The petitioner for adoption or the Department or licensed adoption agency may file a motion with the court for an order rescinding the interlocutory decree of adoption...

An interlocutory decree of adoption shall become a final decree of adoption 12 months after entry of the interlocutory decree, unless the 12-month period is shortened or extended for good cause by the court upon motion of a party to the petition for adoption. In no event shall the extension granted exceed an additional six months.

A final decree of adoption pursuant to Section 227 may not be entered less than six months after issuance of an interlocutory decree of adoption...."

- (c) The agency's responsibility to provide the prospective adoptive parents with a report on the child's medical background
- (d) The availability of AAP for special needs children
- (e) The existence of or due to family history, the potential for any physical, mental, emotional, or medical handicap or condition of the child which may manifest itself after completion of the adoption
- (f) The availability of California Children's Services and the fact that assistance under this program will terminate if the adoptive family moves out of California and that the adoptive family may be eligible for a similar program in the other state
- (g) The agency's grievance review procedure
- (h) The prospective adoptive parent's responsibility to place the child under the care of a licensed physician for the routine health care of the child
- (i) The prospective adoptive parent's responsibility to inform the agency of any serious injury to or illness of the child and to obtain prior written consent for all nonemergency surgical and medical treatment of the child
- (j) The prospective adoptive parent's responsibility to inform the agency regarding any changes in the composition of the adoptive family or the family's place of residence
- (k) The agency's authority to terminate the adoptive placement and to remove the child from the home of the prospective adoptive parents at the agency's discretion unless an interlocutory decree of adoption is in effect or a petition for adoption has been filed
- (l) The agency's agreement to give seven days written notice to the prospective adoptive parents of its intention to terminate the adoptive placement and

remove the child unless the agency believes the child to be in imminent danger in which case no prior notice shall be required

- (m) The prospective adoptive parent's right to terminate the adoptive placement and return the child to the agency at any time prior to the granting of an interlocutory or final decree of adoption
- (n) The provisions of Civil Code Section 226.10 and Penal Code Section 280 regarding concealment of a child

HANDBOOK

- (1) The provisions of Civil Code Section 226.10 are located at MPP Section 70-401.431
- (2) The provisions of Penal Code Section 280 are located at MPP Section 70-401.432
- (o) The disbursement report required by Civil Code Section 224r.

HANDBOOK

- (1) The provisions of Civil Code Section 224r are located at MPP Section 70-401.441.

•6 Prior to or at the time of adoptive placement of the child, the agency shall give a written report to the prospective adoptive parents on the medical background of the child and the child's birth parents in accordance with Civil Code Section 224s(a) and obtain a written statement from the prospective adoptive parents acknowledging receipt of the report.

HANDBOOK

- 61 Civil Code Section 224s(a) reads in part: "Civil Code Section 224s(a): No agency shall place a child for adoption unless a written medical report on the child's medical background, and if available, so far as ascertainable, the medical background of the child's birth parents has been submitted to the prospective

adopting parents and the prospective adoptive parents have acknowledged in writing the receipt of such report.

The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life...."

•7 Prior to or at the time of the adoptive placement of the child, the agency shall give a written report to the prospective adoptive parents which sets forth the information gathered pursuant to Section 70-504 "Assessment of the Child."

•8 The agency shall, when appropriate, file with the department the following documents which pertain to the placement of the child for adoption:

•81 Notice of Placement

HANDBOOK

•811 This is form AD 558.

•812 The agency shall file the Notice of Placement with the department within 15 days of the placement of the child in an adoptive home.

•82 Notice of Removal of Child from Adoptive Home

HANDBOOK

•821 This is form AD 580

•83 Interstate Compact Report on Placement Status of Child

HANDBOOK

•831 This is form ICPC 1008. The agency files this form with the department when the adoption is completed in another state.

•832 If the case did not go through the Interstate Compact on the Placement of Children, the agency

shall inform the department by mail of the
completion of the adoption in another state.

Authority: Welfare and Institutions Code Sections 10553 and
16118; and Health and Safety Code Section 1530.

Reference: Civil Code Sections 224n, 239(b), 276, 224s, and
16119.

Adopt new Section 70-508 to read:

70-508 SUPERVISION OF AN ADOPTIVE PLACEMENT
AND COMPLETION OF THE ADOPTION

70-508

- 1 The agency shall supervise the adoptive placement unless an interlocutory decree of adoption is in effect.

HANDBOOK

- 11 Ordinarily the issuance of an interlocutory decree of adoption relieves the agency of the responsibility of supervising the adoptive placement because the issuance of the interlocutory decree gives the court the power to determine whether the child is to be removed from the home of the prospective adoptive parents. An interlocutory decree of adoption may also be issued which delegates the authority to supervise the adoptive placement to the agency.
- 2 The duration of the supervisory period shall not be less than six months unless:
- 21 The prospective adoptive parent has successfully completed the adoption of another child in California, including assessment of the applicant and supervision by an agency, within the past five years, or
- 22 The prospective adoptive parent is in the military service of the United States or is employed by the American Red Cross and completion of the six-month supervisory period would delay completion of an adoption which the agency has determined should be completed, or
- 23 The child to be adopted is a foster child of the prospective adoptive parent whose foster care placement has been supervised by an agency for at least six months prior to the signing of the adoptive placement agreement.

HANDBOOK

- 231 This includes the foster care placement of children who are relatives of the applicant whose placement has been supervised by an agency for at least six months prior to the signing of the

adoptive placement agreement. This type of placement may be exempt from licensure.

- .3 During the supervisory period, the agency shall conduct a minimum of four interviews with the prospective adoptive parents and the child.

 - .31 At least one interview shall be in the home with the child and the prospective adoptive family.
- .4 The agency shall be permitted to reduce the number of required interviews when one of the requirements specified in MPP Section 70-508.2 is met.

 - .41 There shall be no exception to the requirement specified in MPP Section 70-508.31.
- .5 In the event that a placement is terminated by the agency, and the child is to be removed from the home of the prospective adoptive parents, and the agency has no reason to believe that the child is in imminent danger the agency shall:

 - .51 Provide the prospective adoptive parents with a written notification of the agency's reasons for terminating the placement

 - .511 The notice shall be sent seven days prior to the termination of the placement.
 - .512 The notice shall state the specific conditions which led to the agency's decision to remove the child.
 - .513 The notice shall inform the prospective adoptive parents of the right to a grievance review under MPP Section 70-509.
- .6 In planning for prospective adoptive parents who move after the adoptive placement, the agency shall:

 - .61 Inform the prospective adoptive parents of the provisions of Civil Code Section 227, regarding prior court appearance, as appropriate
 - .62 Inform the prospective adoptive parents that the agency is required by Civil Code Section 264 et seq. to comply with the provisions of the Interstate Compact for the Placement of Children.

- 63 All requests for service to an out-of-state agency shall include a clear statement of:
 - 631 The service requested and the help the family needs
 - 632 The reports expected in accordance with California regulations
 - 633 Whether finalization of the adoption is to be in California or in the other location
 - 634 The arrangements that the agency has made for the return of the child to the California agency if the placement is unsuccessful
 - 635 Information regarding fees paid or to be paid.
- 64 If the request for service is refused, the out-of-state agency shall be requested to provide names of qualified agencies or practitioners to which the adoptive family may be referred for services.
- 7 In order to amend the birth certificate, the agency shall secure the adoptive parent's signature on the Court Report of Adoption form.

HANDBOOK

- 71 This is form VS 44
- 72 The agency should ensure that the adoptive parent completes the applicable portions of the form.
- 73 The agency should complete those portions of the form which pertain to the birth parent.
- 74 Unless an interlocutory decree of adoption is in effect, the agency shall file the Court Report of Adoption form with the superior court at the time the joinder and consent are filed.
- 75 If an interlocutory decree of adoption is in effect and if the adoptive parents wish to obtain an amended birth certificate for the child, the agency shall file the Court Report of Adoption form with the superior court no sooner than five days before the interlocutory decree of adoption becomes a final decree of adoption.

- .76 If both adoptive parents are living at the time of placement and one parent dies prior to finalization of the adoption, the agency shall inform the surviving parent of the provisions of Civil Code Section 230.5.

HANDBOOK

- .761 Civil Code Section 230.5 permits an action to be brought in the county of the petitioner's residence for the purpose of obtaining a new birth certificate for the adopted child which specifies that a deceased spouse, who was present in the home at the time of the adoptive placement, is the parent of the child.
- .8 If the agency approves the adoption, it shall file with the court a report recommending the adoption, join in the petition and give its consent to the adoption.
- .81 In placements involving more than one agency, the consent and joinder shall be forwarded from the child's agency to the adoptive family's agency and filed with the court report.
- .9 If a petition for the adoption of a child for whom the agency has care, custody, and control pursuant to Civil Code Section 224n is filed by a person or persons with whom the agency has not placed the child for adoption, the agency shall petition the court to dismiss such petition for adoption.

Authority: Welfare and Institutions Code Section 10553 and Health and Safety Code Section 1530.

Reference: Civil Code Sections 224n, 226.3, 226.6, 227, 230.5, and 264 through 274.

Adont new Section 70-509 to read:

70-509 GRIEVANCE REVIEW

70-509

- .1 Upon written request from an applicant or a prospective adoptive parent, the agency shall provide for a grievance review hearing on any action taken by the agency before a petition for adoption is filed.
- .11 The agency shall advise applicants or prospective adoptive parents that the request for a grievance review hearing shall:
 - .111 Be signed by the applicant or prospective adoptive parent or his/her authorized representative
 - .112 State specifically the facts surrounding the action complained of
 - .113 Be submitted to the agency within thirty days of the agency action which is the subject of the complaint.
- .12 No request for a grievance review hearing shall be granted if the request for a grievance review hearing is based solely on any of the following:
 - .121 Any action of the agency in compliance with a court order
 - .122 A question regarding the validity of a statute or a regulation
 - .123 Any issue for which a state hearing is available under Welfare and Institutions Code Section 10950.

HANDBOOK

- .124 Welfare and Institutions Code Section 10950 reads in part:

"Welfare and Institutions Code Section 10950: If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his application for or receipt of public social services, if his application is not acted upon with reasonable promptness, or if any person who desires to apply

for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with such refusal, he shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity for a fair hearing....."

.2 The agency shall schedule the grievance review hearing to be held within 10 working days from the date the written request for the grievance review hearing is received by the agency.

.21 The agency shall give notice to all parties to the grievance review hearing of the time, date, and place scheduled for the grievance review hearing.

.211 The agency shall send the notice not less than five working days prior to the scheduled grievance review hearing.

.3 The grievance review hearing shall be conducted by a grievance review agent in a nonadversary atmosphere insofar as possible.

.31 The agency shall provide for the recording of the grievance review hearing.

.32 The parties to the grievance review hearing, their authorized representatives, if any, and witnesses while testifying shall be the only persons authorized to be present during the grievance review hearing unless:

.321 All parties and the grievance review agent agree to the presence of other persons.

.33 If the grievance review agent determines that additional evidence or witnesses are necessary in order to make a recommendation to the agency director, the grievance review agent shall continue the grievance review hearing for a period not to exceed 10 working days.

.4 The grievance review agent shall make a written recommendation to the agency director regarding resolution of the grievance within five working days after completion of the grievance review hearing.

•41 The agency director shall make a written decision within five working days of the receipt of the recommendations of the grievance review agent, based upon the evidence presented at the grievance review hearing.

•411 The written decision shall:

- (a) Summarize the facts and issues involved
- (b) Make specific findings regarding the issues
- (c) Be sent to:
 - (1) Each party to the grievance
 - (2) Each authorized representative of each party, if any
 - (3) The department.

Authority: Welfare and Institutions Code Section 10553 and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Section 10950 and Civil Code Section 224n.

Renumber and amend Chapter 70-800 to read:

Chapter 70-8600 Procedures for Intercountry Adoptions

Renumber Section 70-801 to 70-601 and amend to read:

70-8601 GENERAL AND ADMINISTRATIVE REQUIREMENTS

70-8601

- .1 In addition to meeting the requirement of MPP Section 70-301.2 the agency shall make copies of the following available to all staff:

 - .11 Federal statute and regulations pertaining to intercountry adoptions
 - .12 Department of Social Services' Manual of Policies and Procedures (MPP), Division 70
 - .13 California Administrative Code, Title 22, Division 2, Chapter 3, Adoptions and Child Placing Agencies
 - .142 Current written information explaining the laws, policies and procedures of any foreign agency
 - .153 Either copies of or the requirements contained in all written agreements between the agency and any foreign agency as required in MPP Section 70-8601.2 below.
- .2 The agency shall have a written agreement with each foreign agency from which the agency places children.

 - .21 The written agreement between the agency and the foreign agency shall:

 - .211 Verify that the foreign agency is authorized to place children for intercountry adoption under the laws of the foreign agency's country
 - .212 Specify the responsibility of the foreign agency for the care of the child including medical care and financial support
 - .213 Specify the authority and responsibility of the foreign agency in relation to placement, disruptions, finalization of the intercountry adoption or return of the child to his/her native country

- 214 Specify that the agency shall notify the foreign agency in writing whenever the adoption cannot be finalized
- 215 Specify the supervision and reporting requirements of the foreign agency
- 216 Specify the policies and procedures for the selection of children through the foreign agency
 - a. The policies of a foreign agency may preclude placement of a foreign-born child with certain individuals or family constellations.
- 217 Specify responsibility for travel arrangements for the child's transportation from the child's native country to the final California destination.
- 3 The agency shall submit intercountry reports to the department as required including but not limited to the following:
 - 31 The number of applications pending
 - 32 The number of completed Assessments of Applicants
 - 33 The number of pending Assessments of Applicants
 - 34 The number of adoptions by relatives
 - 35 The number of homes awaiting placement of a foreign-born child
 - 36 The number of completed intercountry adoptions
 - 37 The number of foreign-born children placed by country of origin.
- 4 Agencies that provide intercountry adoption services shall submit the following information to the department for each adoptive placement of a foreign-born child:
 - 41 Child's birth name and date of birth
 - 42 Names of adoptive parents
 - 43 Names of birth parents, if available
 - 44 Name of foreign agency

- 45 Name of agency.
- 5 The agency shall establish a fee schedule for intercountry adoption services as required by Welfare and Institutions Code Section 16143.2.

HANDBOOK

- 51 Welfare and Institutions Code Section 16143.2 reads as follows:

 "Welfare and Institutions Code Section 16143.2: The costs incurred by licensed adoption agencies pursuant to programs established by the act which added this section to the Welfare and Institutions Code shall be funded by fees charged by those agencies for services required by this chapter. The agency's fee schedule must be approved by the department initially, and whenever it is altered."
- 6 The agency shall maintain a permanent record for each foreign-born child and/or family for whom the agency provides adoption services.
 - 61 In addition to copies of all correspondence case records shall include:
 - 611 Copies of all documents received from the foreign agency
 - 612 Written Assessment of the Child as required by MPP Section 70-805604 including a copy of the psychological and medical history form as required by MPP Section 70-805-6604.6
 - 613 Copy of written Background Information on Birth Parents as required by MPP Section 70-806605 including medical report on the mother of the child as required by MPP Section 70-806605.122
 - 614 Copy of written Assessment of the Applicant as required by MPP Section 70-804603 including:
 - (a) Documentation required by MPP Section 70-804-5603.7

- (b) Copy of notification of agency's decision regarding the assessment as required by MPP Section 70-804603.8.
- .615 Information regarding application, placement and supervision including:
- (a) Copy of completed application as required by MPP Section 70-803602.1
 - (b) Copy of placement agreement as required by MPP Section 70-807-16606.17
 - (c) Copy of updated psychological and medical history form and updated assessment of the child as required by MPP Section 70-808607.43 and .44
 - (d) Documentation that the agency provided a copy of the updated psychological and medical history form to the prospective adoptive parent as required by MPP Section 70-808607.431
 - (e) Documentation to support any reduction in the six-month supervisory period as specified in MPP Section 70-808607.3
 - (f) Documentation of all interviews conducted during the supervisory period as required by MPP Section 70-808607.5 and .6 including:
 - (1) Documentation of any area listed in MPP Section 70-808607.711 through .716 observed by the agency representative that requires modification and a description of the modification required by MPP Section 70-808607.42.
 - (g) Copy of written evaluation of the adoptive placement as required by MPP Section 70-808607.7
 - (h) Copy of all written notices as required by Title 22, California Administrative Code, Division 2, Sections 30684(c) and (d) MPP Sections 70-509.21 and .411(c)(1).

•616 Copies of all court reports submitted by the agency as required by MPP Section 70-~~809608~~

•617 Copies of all requests for disclosure of information from the adoption case record including:

(a) Requests for medically necessary information

(b) Waivers of confidentiality to allow the agency or department to arrange for contact among the adult adoptee, ~~the natural parent~~ and the birth parent and the adoptive parent

(c) Requests for disclosure of the name and address of the birth parent

(d) Requests for a copy of the psychological and medical history form.

•618 Copy of certification submitted to INS that California Preadoption Requirements have been met.

•7 In addition to meeting the requirements of this section, the agency shall meet all applicable requirements in MPP Sections 70-203 and 303.

Authority: Welfare and Institutions Code Section 10553, 10554, and 16141; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Section 16141.

Renumber Section 70-803 to read 70-602

~~70-803~~602 APPLICATION FOR THE PLACEMENT OF A CHILD
FOR ADOPTION

~~70-803~~602

- 1 The agency shall require a written application prior to making an assessment of any person wishing to adopt a child.

Authority: Welfare and Institutions Code Sections 10553,
10554, and 16141.

Reference: Welfare and Institutions Code Section 16141.

Renumber Section 70-804 to 70-603 and amend to read:

70-~~804~~603 ASSESSMENT OF THE APPLICANT

70-804603

- 1 The agency shall make a written assessment of the each applicant to determine the applicant's suitability as a prospective adoptive parent seeking to adopt children for whom the agency needs adoptive parents in order to determine the applicant's suitability as a prospective adoptive parent.
- 11 The written assessment shall be the basis for the agency's decision as to whether the applicant will be approved for the adoptive placement of a child.
- 2 The agency shall have the authority to make a determination that the applicant shall not be approved for the adoptive placement of a child at any point in the assessment process.
- 3 The agency shall make a determination that the applicant shall be approved for the adoptive placement of a child only after completing the entire assessment process.
- 4 The agency shall conduct interviews as necessary to make the determination required in MPP Section 70-~~804~~603.1.
 - 41 The agency shall conduct at least one interview in the home of the applicant.
 - 42 The agency shall conduct separate interviews with each applicant if more than one applicant.
 - 43 The agency shall conduct a joint interview with the applicants if there is more than one applicant.
 - 44 The agency shall conduct interviews with all other adults and have contact with all children who live in the applicant's home.
- 5 The agency shall discuss the following information with the applicant:
 - 51 Approximate time it may take to complete each stage of the intercountry adoption process
 - 52 Statutory and regulatory requirements for adoption including: confidentiality of adoption records
 - 521 INS requirements

- 522 Foreign agency requirements.
- 53 Children available through the agency for adoption
- 54 Agency fees including foreign agency fees.

•541 Foreign agency fees

•6 The agency shall inform the applicant of the following:

•61 The policies of a foreign agency may preclude placement of a foreign-born child with certain individuals or families.

•55.62 Availability of a grievance review process in accordance with Title 22, California Administrative Code Section 30684 MPP Section 70-509

•56.63 The applicant's responsibility to pay for transportation of the foreign-born child from the child's native country to the child's final destination in California

•57.64 The applicant's responsibility for the foreign-born child adopted under the laws of the child's native country

•58.65 If the applicant is going to adopt the foreign-born child under the laws of the child's native country:

•581.651 The desirability of readopting the foreign-born child in California or petitioning the court for a California birth certificate

•582.652 The agency that completed the assessment pursuant to MPP Section 70-603 shall provide all agency services to the applicant to assist him/her in completing the adoption in California to include but not limited to completing the required report to the court required by MPP Section 70-608.

(a) Completing the report to the court required by MPP Section 70-809.

•59.66 The applicant's responsibility for the foreign-born child when he/she has received guardianship of the child under the laws of the child's native country.

•6.7 The agency shall obtain the following documentation from the applicant to facilitate the assessment:

•671 Authorization for the release of medical and employment information on the applicant

•672 Report of medical examination on the each applicant

•6721 The medical report shall be signed by a licensed physician

•6722 The medical examination required by this section shall have been conducted no earlier than six months prior to the application. The report shall be completed prior to the placement of a child for adoption but not more than one year prior to the commencement of the assessment.

•723 The report shall include a certificate that the individual is free from communicable tuberculosis for each adult residing in the home.

•673 School reports for all school age children residing in the home of the applicant

•674 At least three letters of reference regarding the suitability of the applicant as an adoptive parent.

•78 The assessment of the applicant shall include:

•781 Obtaining the following identifying information:

•7811 Name, date of birth and sex

•7812 Current address and telephone number

•7813 Blood relationship to child, if any

•7814 Race and ethnic background information

•7815 Religion

•7816 Current employment information

•7817 Verification of marital status, if relevant

(a) Verification of termination of all prior marriages.

•782 Evaluation of:

•7821 General characteristics

HANDBOOK

- (a) The manner in which the applicant has dealt with difficult or stressful life situations
- (b) Relationships within the applicant's family
- (c) Ability to assume responsibility for the care, guidance and protection of a child
 - (1) Acceptance of a child from a different race or ethnic background
- (d) Emotional flexibility and stability
- (e) Self-esteem
- (f) Coping ability
- (g) The manner in which normal hazards and risks are accepted
- (h) Motivation for adoption
- (i) Ability to have a parent-child relationship and to enjoy a child
- (j) Flexibility regarding the applicant's expectations of a child
- (k) Feelings and attitudes regarding:
 - (1) Inability of the applicant to conceive children when this is a factor in the application
 - (2) Birthparents
 - (3) Children who have been abused, neglected or abandoned
 - (4) Sharing the facts surrounding the adoption with the adopted child including how the applicant plans to teach the child about, identify with and have information about his/her native country

- (5) Children who have physical, emotional and/or mental handicaps.

•7822 Social background*

HANDBOOK

- (a) Participation in community activities
(b) Peer relationships.

•7823 Educational background

•7824 Financial stability

•7825 Work adjustment

•7826 Adequacy of housing

HANDBOOK

- (a) Evaluation of adequacy of housing may include evaluation of the following conditions:

- (1) Sanitation
(2) Safety
(3) Sleeping accommodations
(4) Play area.

•783 Compliance with the requirements of the foreign agency that has been selected.

•82 The agency shall provide the applicant with written notification of its decision.

•891 Notification of the agency's decision that the applicant is approved for the adoptive placement of a child shall include identification of age, race, gender and characteristics of children considered for placement.

•892 Notification of the agency's decision not to approve the applicant for the adoptive placement of a child shall include an identification of the factors listed in MPP Section 70-804603 which led to the agency's decision.

- 8921 The agency shall inform the applicant of the agency's grievance review procedure and the right of the applicant to file a grievance with the agency within 30 days of receipt of the agency's decision.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Welfare and Institutions Code Section 16141.

Renumber Section 70-805 to 70-604 and amend to read:

~~70-805~~604 ASSESSMENT OF THE CHILD

70-895604

- 1 The agency shall make a written assessment of the child.
- 2 The agency shall obtain documentation on the child to facilitate the assessment, including:
 - 21 Identifying information
 - 212 Medical reports
 - 223 Psychological evaluations
 - 234 Scholastic information
 - 245 Developmental history
 - 256 Family life history
 - 267 Certified copy of birth certificate
 - 278 Race and ethnic background
 - 289 Religion.
- 3 The agency shall obtain the documentation on the foreign-born child from the foreign agency responsible for the child.
- 4 The agency shall document any unavailability of the documentation required by MPP Section ~~70-805~~604.2 and the reasons for its unavailability.
- 5 The assessment shall include:
 - 51 Current and anticipated:
 - 511 Psychological functioning
 - 512 Scholastic functioning
 - 513 Social functioning
 - 514 Health status.
 - 52 Identification of any special needs of the child.

- 6 The agency shall complete a psychological and medical history form for the child.
- 7 The agency shall submit the written assessment to the prospective adoptive parent and discuss with him/her the agency's evaluation of the child's current and anticipated functioning as required by MPP Section 70-604.51 30 days prior to placement of the child in the home.
- 71 The prospective adoptive parent shall acknowledge in writing receipt of this information.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Civil Code Sections 224s and 226.6.

Renumber Section 70-806 to 70-605 and amend to read:

~~70-806605~~ BACKGROUND INFORMATION ON THE BIRTH PARENTS

~~70-806605~~

- 1 The agency shall obtain the following written information on the child's birth parents:

- 11 Identifying information including:

- 111 Name
- 112 Current address
- 113 Date of birth
- 114 Sex
- 115 Race and ethnic background
- 116 Any information required by the foreign agency.

- 12 Medical background information including:

- 121 Written medical report signed by a licensed physician
- 122 Written medical report on the mother of a child who is less than one year of age signed by the physician who delivered the child or, if not available, from the hospital where the child was born. The report shall include:
 - (a) Results of the mother's blood test for syphilis
 - (b) Information regarding all medication taken by the mother during pregnancy
 - (c) Mother's health during pregnancy
 - (d) Any complications of pregnancy
 - (e) Any complications of delivery.

- 13 Social history including:

- 131 Marriages
- 132 Other children

- .133 Reason for placement
- .134 Education and employment.
- .2 The agency shall obtain the information on the birth parents of the foreign-born child from the foreign agency responsible for the child.
- .3 The agency shall document any unavailability of the information required by MPP Section 70-806605.1 and the reasons for its unavailability.
- .4 The agency shall submit the nonidentifying information to the prospective adoptive parent 30 days prior to placement of the child in the home.
- .41 The prospective adoptive parent shall acknowledge in writing the receipt of the report.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Welfare and Institutions Code Section 16141; and Civil Code Sections 224s and 226.6.

Renumber Section 70-807 to 70-606 and amend to read:

70-897606 PLACEMENT

70-897606

- 1 Prior to placement of the child where the adoption will be completed in California, the agency shall:
 - 11 Obtain documentation from the foreign agency that the child is legally free for adoption
 - 12 Determine that the child's needs can be met by placement with the prospective adoptive parent
 - 121 The child's needs shall be determined by the assessment required by MPP Section 70-895604.
 - 122 The prospective adoptive parent's ability to meet the needs of the particular child shall be determined by a review of the Assessment of the Applicant required by MPP Section 70-894603.
 - 123 The agency shall make all nonidentifying information obtained in the Assessments of the Child and Background Information on the Birth Parents available to the prospective adoptive parent and shall discuss with the prospective adoptive parent the agency's evaluation of the child's current and anticipated functioning as required by MPP Section 70-895651
 - (a) The agency shall submit the information to the prospective adoptive parent no later than 30 days prior to the placement of the child
 - 124 The agency shall make the psychological and medical history form required by MPP Section 70-895604.6 available to the prospective adoptive parent.
 - 13 Determine that all INS requirements for a foreign-born child have been met
 - 14 Certify to INS compliance with California Preadoption Requirements
 - 15 Unless the prospective adoptive parent has received guardianship of the foreign-born child from the child's

native country the agency shall discuss the following with the prospective adoptive parent:

- (a) That the agency shall retain legal custody of the child, supervise the adoptive placement, and routinely meet with the prospective adoptive parent and child until a final decree of adoption is granted
- (1) If the agency enters into an agreement with the prospective adoptive parent to share or transfer financial responsibility for the child, as permitted by Welfare and Institutions Code Section 16143.1, ~~that~~ the placement agreement shall include the nature of the responsibility assumed by the prospective adoptive parent, the duration of that responsibility and the effective date.

HANDBOOK

- (A) Welfare and Institutions Code Section 16143.1 reads as follows:

"Welfare and Institutions Code Section 16143.1: Nothing in this article shall be construed to prohibit the licensed adoption agency from entering into an agreement with the prospective adoptive parents to share or transfer financial responsibility for the child."

- (b) That the child shall not be concealed within the county prior to granting of the final decree of adoption
- (c) That the child shall not be removed from the county of residence of the prospective adoptive parent prior to filing an adoption petition without the prior written consent of the agency
- (d) That after the adoption petition is filed the child shall not be removed from the county of residence of the prospective adoptive parent for a period exceeding 30 days without the approval of the court until a final decree of adoption is granted

- (e) That the prospective adoptive parent shall ~~immediately~~ place the child under the care of a licensed physician and shall follow the ~~physician's recommendation~~ for routine health care for of the child including immunizations
- (f) That the prospective adoptive parent shall inform the agency of any serious injury to or illness of the child and shall obtain prior written consent for all nonemergency surgical and other nonroutine medical treatment for the child
- (g) That the prospective adoptive parent shall inform the agency regarding any changes in the composition of the adoptive family or place of residence of the family
- (h) That the adoptive placement may be terminated and the child removed from the prospective adoptive parent's home at the agency's discretion prior to the filing of the petition to adopt
- (i) That the agency agrees to give seven days written notice to the prospective adoptive parent of its intent to terminate the adoptive placement and remove the child unless the agency has determined that the child is in danger of cruelty, neglect, depravity or abuse
- (j) That after the adoptive petition has been filed the agency must obtain court approval to remove the child
- (k) That the prospective adoptive parent shall be permitted to terminate the adoptive placement and return the child to the agency at any time prior to the granting of the final decree of adoption
- (l) That the agency shall determine that all ICPC requirements for an interstate placement have been met as required by Title 22, California Administrative Code, Sections 30850 through 30859
- (m) That the agency has a grievance review procedure and the right of the prospective adoptive parent to file a grievance with the agency if the parent is dissatisfied with any action of the agency at any time before a petition for adoption is filed

(1) The grievance review process shall be in accordance with Title 22, California Administrative Code, Chapter 3, Article 9 MPP Section 70-509.

(n) That Welfare and Institutions Code Section 16144 requires that as a condition of placement the prospective adoptive parent shall file a petition to adopt the child under Section 226 of the Civil Code within thirty (30) days of placement.

•16 When the prospective adoptive parent has received guardianship of the foreign-born child from the child's native country, the agency shall discuss the following with the prospective adoptive parent:

(a) That the agency shall routinely meet with the prospective adoptive parent and child until a final decree of adoption is granted

(b) That the child shall not be removed from the county of residence of the prospective adoptive parent prior to filing an adoption petition without notifying the agency in writing

(c) That the prospective adoptive parent shall inform the agency of any serious injury to or illness of the child

(d) That the agency will notify the local child protective services agency when the agency has determined that the child is in danger of cruelty, neglect, depravity or abuse

(e) Those items contained in .15(b), (d), (e), (f), (j), (m), and (n) of this section.

•17 Enter into an adoptive placement agreement with the prospective adoptive parent which agreement shall include:

•171 General and identifying information as follows:

(a) Name and address of prospective adoptive parent

(b) Name, address and telephone number of agency

(c) First name and date of birth of child

- (d) Anticipated date of placement
- (e) Amount of agency fees, including foreign agency fees, if any.
- 172 Statements which summarize the information required by MPP Section 70-807606.15 or .16
- 173 A space for acknowledgement of receipt by the prospective adoptive parent of the information required by MPP Sections 70-807606.123 and 124.
- 174 A space for the signature of the prospective adoptive parent and date of signing the adoptive placement agreement
- 175 A space for the signature of the agency's representative and date of signing the adoptive placement agreement
 - (a) The signature and date of signing by a representative of each agency shall be obtained if the placement is a cooperative placement between two agencies.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Welfare and Institutions Code Section 16141.

Renumber Section 70-808 to 70-607 and amend to read:

70-~~894~~607 SUPERVISION OF ADOPTIVE PLACEMENT

70-~~898~~507

- 1 The agency shall supervise the adoptive placement of the child with the prospective adoptive parent unless the child was adopted abroad.
- 2 The agency shall commence supervision of the adoptive placement when the child is placed with the prospective adoptive parent and continue until a final decree of adoption is granted or the child is removed from the home of the prospective adoptive parent.
- 3 The duration of the supervisory period shall not be less than six months unless:
 - 31 The adoptive parent has successfully completed the adoption of another child in California, including an Assessment of the Applicant and supervision by an agency, within the past two five years, or
 - 32 The adoptive parent is in the military service of the United States or is employed by the American Red Cross and completion of the six-month supervisory period would delay completion of an adoption which the agency has determined should be completed.
- 4 During the supervisory period the agency shall provide the following services as needed to the prospective adoptive parent and to the child to be adopted so that the child may be successfully integrated into the family:
 - 41 Liaison between the family and:
 - 411 Schools
 - 412 Mental health agencies
 - 413 Physical health agencies
 - 414 Rehabilitation service agencies
 - 415 Other community resources.
 - 42 Discussion with the prospective adoptive parent regarding any area listed in MPP Sections 70-~~808~~607.711 through .716 observed by the agency representative that

requires modification and a description of the modification required

- 43 Update the psychological and medical history form to reflect any additional information revealed during the supervisory period
 - 431 The agency shall give a copy of the updated psychological and medical history form to the prospective adoptive parent.
 - 432 The agency shall obtain the prospective parent's signature acknowledging receipt of the updated psychological and medical history form.
- 44 Update the Assessment of the Child to reflect any additional information discovered during the supervisory period.
- 5 During the supervisory period the agency shall conduct at least one interview in the home of the prospective adoptive parent with the prospective adoptive parent and the child to be adopted.
- 6 The agency shall conduct at least three additional interviews with the prospective adoptive parent unless the duration of the supervisory period has been reduced to less than six months as provided for in MPP Section 70-808607.3.
- 7 The agency shall make a written evaluation of the adoptive placement.
 - 71 The evaluation shall include:
 - 711 The child's physical growth and development, including identification of any abnormalities
 - 712 The child's general health and physical appearance, including identification of any problem areas
 - 713 The child's initial and continuing adjustment in the home including:
 - (a) The child's attitude about adoption
 - (b) The child's attitude about this adoptive placement

- (c) The child's relationship with other family members
- (d) The child's school adjustment
- (e) The child's social interaction
- 714 The relationship of the prospective adoptive parent and all other family members with the child
- 715 The use made of extended family relationships by the prospective adoptive parent
- 716 The method, consistency and success of discipline used by the prospective adoptive parent.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Welfare and Institutions Code Section 16141.

Renumber Section 70-809 to 70-608 and amend to read:

70-~~809~~608 INTERCOUNTRY ADOPTION COURT REPORT

70-~~809~~608

- 1 The agency shall make a report to the court in all cases where the child has been placed for adoption by the agency and the prospective adoptive parent has filed a petition for adoption. The court report shall be submitted:
 - 11 Within 180 days after the petition for adoption has been filed, or
 - 12 Within the time period extended by the court.
- 2 The report shall include:
 - 21 A full report of the Background Information on the Birth Parents as required by MPP Section 70-~~806~~605
 - 22 A full report of the information obtained in the Assessment of the Child as required by MPP Section 70-~~805~~604
 - 23 A full report of the information obtained in the Assessment of the Applicant as required by MPP Section 70-~~804~~603
 - 24 A copy of the documentation that the child is legally free for adoption
 - 25 The agency's recommendation that the petition be granted or denied.
- 3 The agency shall not include the names and addresses of the birth parents in the court report.
- 4 In those cases in which the agency has a question concerning the suitability of the petitioners or the care provided the child, the agency shall immediately file the court report.
 - 41 A question regarding the suitability of the petitioner or the care provided the child shall be documented in the report to the court.
 - 42 The agency shall recommend either:
 - 421 That the court give direction to the agency regarding the situation giving rise to the agency's question, or

- 422 Recommend that the petition be denied.

HANDBOOK

- 5 Civil Code Section 226c reads as follows:

"Civil Code Section 226c: Removal of child from petitioner's home: commitment; duties of agency. At the hearing, if the court sustains the recommendation that the child be removed from the home of petitioners because the agency has recommended denial or the petitioners desire to withdraw the petition or the court dismisses the petition and does not return him to his parents, the court shall commit the child to the care of the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, whichever agency made the recommendation, for that agency to arrange adoptive placement or to make a suitable plan. In those counties not covered by a licensed county adoption agency, the county welfare department shall act as the agent of the State Department of Social Services and shall provide care for the child in accordance with rules and regulations established by the department."

- 6 The agency shall make a copy of its report available to the attorney of record for the adoptive petitioner or to the adoptive petitioner if he/she is not represented by an attorney.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Welfare and Institutions Code Section 16141.

Adopt new Chapter Heading to read:

Chapter 70-700 Adoption Assistance Program/Aid for the Adoption
of Children (AAP/AAC)

Adopt Section 70-701 to read:

70-701 AAP ELIGIBILITY

70-701

- .1 In order for a child to be eligible for Adoption Assistance Program (AAP) benefits, the conditions specified at Welfare and Institutions Code Section 16120 and 45 CFR 1356.40(d) shall be met.

HANDBOOK

- .11 Welfare and Institutions Code Section 16120 states in pertinent part:

"Welfare and Institutions Code Section 16120: Adoption Assistance Program benefits shall be paid only on behalf of special needs children for whom the following conditions are met:

- (a) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits...
- (b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.
- (c) The adoptive family is responsible for the child pursuant to the terms of an adoption assistance agreement and an interlocutory decree or a final decree of adoption.
- (d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.
- (e) The child has been either relinquished for adoption to a California agency or freed for

adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 226 of the Civil Code."

•12 Title 45 CFR 1356.40(d) states:

"Title 45 CFR 1356.40(d): There must be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments."

•121 This is not to imply that there is no consideration of the family's financial resources as set forth at Section 70-702.121 when determining the payment amount.

•2 Prior to the selection of adoptive parents requiring adoption assistance payments, the agency shall seek adoptive parents who do not require such assistance.

•21 This search for adoptive parents shall be documented in the adoption case record and shall include the following:

•211 Discussion of potential adoptive parents at a regional adoption agency exchange meeting, or

•212 Registration of the child with the department's photo-listing album.

•22 This search shall not be required when the current foster parents, or other persons with whom the child has been living and has established significant emotional ties, have both:

•221 Expressed interest in adopting the child, and

•222 Been determined by the agency to be suitable adoptive parents for the child.

•3 The adoptive parent's legal residence shall not affect the child's eligibility.

HANDBOOK

•31 Welfare and Institutions Code Section 16121.1 states:

"Welfare and Institutions Code Section 16121.1: Notwithstanding the provisions of Section 11105, the residence of the adoptive parents at the time of or subsequent to adoptive placement shall not terminate the eligibility of a child who is otherwise eligible for adoptive assistance payments."

- 4 The determination of the child's eligibility for adoption assistance shall be documented in the case record.

Authority: Welfare and Institutions Code Sections 10553 and 16118.

Reference: Welfare and Institutions Code Sections 16118, 16120; and 42 USC Sections 671 and 673.

Adopt Section 70-702 to read:

70-702 AAP PROCEDURES

70-702

- 1 If the child is a special needs child and the adopting parents desire adoption assistance, the adopting parents shall be provided with a Request for Adoption Assistance form (AAP 1).
- 11 Upon receipt of the completed AAP 1, the agency shall submit the Federal Eligibility Certification for Adoption Assistance Program form (FC 8) to the county.
 - 111 The child's name prior to adoption (birth name) shall be used on the FC 8 which shall not contain the child's adoptive name.
- 12 If the prospective adoptive parents complete the Request for Adoption Assistance form, the agency and the prospective adoptive parents shall, prior to the final decree of adoption and prior to completing an adoption assistance agreement, determine the needs of the special needs child, resources available to meet those needs, and the amount and probable duration of AAP benefits.
 - 121 Resources to be considered shall include:
 - (a) The prospective adoptive parent's financial resources and needs of the family. The income of the prospective adoptive parents is a circumstance which shall be taken into account in determining the amount of payment. However, the income of the prospective adoptive parents alone shall not be used to determine the amount of payment; the needs of the child shall also be considered.
 - (b) Regional Centers for the developmentally disabled
 - (c) California Children's Services
 - (d) In-Home Supportive Services
 - (e) Other private or public resources which offer financial, medical, psychological, educational, or other assistance.

•122 The amount and duration of AAP benefits shall be tailored to the unique needs and resources of each family and special needs child.

(a) Payment amounts shall meet the requirements of Welfare and Institutions Code Section 16121(a).

HANDBOOK

- (1) Welfare and Institutions Code Section 16121(a) requires that payment amounts not exceed the amount that would be paid for foster care for the child if the adoptive placement were not to occur. However, the adoption assistance payment may include the state-approved specialized foster care increment or, if the child is in a group home, the state-approved group home rate when the child is or would have been eligible for these as a foster child.
- (2) The limit for federal financial participation is the foster family home rate.
- (b) Adoption assistance meets the following three classes of needs:
 - (1) Basic needs: Equivalent to the care provided by the basic foster care rate for a foster child placed in a foster home.
 - (2) Special Circumstances Needs: Equivalent to the additional care and services provided a foster child by a specialized foster care increment and/or group home rates.
 - (3) Medical Care: Equivalent to the care provided a foster child by the Medi-Cal program.
- (c) The following guidelines regarding the impact of family circumstances on the AAP grant may be useful in assisting the family

and agency in their determination of the appropriate grant amount:

- (1) Families whose income is below the median will probably require ongoing assistance with basic needs. The level of this assistance will vary inversely with family income.
- (2) Families are likely to require assistance with special circumstances needs for the duration of those needs.
- (3) Families without access to ongoing health insurance for the adopted child which covers the adopted child's pre-existing conditions will require a minimum grant so that continuing Medi-Cal coverage is assumed.
- (4) If the family has to reduce its income (e.g., if one or both parents must reduce their employment outside of the home), a larger grant will probably be required.

•123 In a placement involving more than one agency, the agencies and the prospective adoptive parents shall determine the needs of the child and the resources available to meet those needs.

Authority: Welfare and Institutions Code Sections 10553 and 16118; Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Sections 16118, 16120, 16121, and 16121.5; 45 CFR Section 1356.40; and 42 USC Sections 673 and 675.

Adopt new Section 70-703 to read:

70-703 ADOPTION ASSISTANCE AGREEMENT

70-703

- .1 Prior to the granting of a final decree of adoption, the agency and the prospective adoptive parents shall sign an adoption assistance agreement.
- .11 The adoption assistance agreement shall be on a form prescribed by the department.
- .12 If AAP is to be provided after an interlocutory decree of adoption but prior to the final decree, the adoption assistance agreement shall be signed prior to the granting of the interlocutory decree of adoption.

HANDBOOK

- .13 The adoption Assistance Agreement is Form AD 4320
- .14 The child's adoptive name shall be used on the agreement.
- .15 In adoptive placements which involve more than one agency, both agencies shall sign the agreement.
- .2 The agreement shall specify the information required by 42 USC 673 and 695; 45 CFR 1356.40; and Welfare and Institutions Code Sections 16120 and 16121.

HANDBOOK

- .21 These sections require that the agreement specify the following:
 - (a) The amount of financial assistance
 - (b) The duration of financial assistance
 - (c) The effective date of payment
 - (d) That the existence of a medical condition or physical, mental, or emotional handicap or other condition which makes the child a special needs child has been confirmed by the agency

- (e) That, until termination of financial assistance, the adoptive parents must notify the child's agency immediately regarding the following:
- (1) Any substantial change in their financial circumstances
 - (2) Any change in the child's needs
 - (3) Any change in their place of residence
- (f) The agency and the adoptive parents must reevaluate, and if appropriate, adjust the amount of assistance when the adoptive parents report any of the changes specified in (e) above.
- (g) The county must provide the family with prior written notice of the date payments will be discontinued.
- (h) Continuation of payment depends upon continued legal responsibility of the adoptive parents for the support of the child and upon continued receipt by the child of that support
- (i) The child is eligible for Medi-Cal services
- (j) The child is eligible for Title XX services
- (k) The procedure for recertification of the adoption assistance agreement
- (l) The agreement remains effective regardless of the state in which the adoptive parents reside
- (m) Any additional services and assistance which are to be provided as part of the agreement.

•3 When the effective date of payment is not known because a child has special needs due to mental, physical, medical or emotional handicaps which do not require current benefits but which could require future benefits, the adoption assistance agreement shall indicate that the family may request benefits to meet needs associated with the handicaps at an unspecified future date.

- 31 A history (e.g., of abuse) which is likely to lead to a future mental, physical, medical or emotional condition is treated as such a condition.
- 32 MPP Section 70-702.122 may be used to determine payment amount and duration when the family requests benefits.
- 33 An Adoption Assistance Agreement form may be used to record the new agreement.

Authority: Welfare and Institutions Code Sections 10553 and 16118; Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Sections 16118, 16120, and 16121; 42 USC Sections 673 and 675.

Adopt new Section 70-704 to read:

70-704 AAP PAYMENT AUTHORIZATION

70-704

- .1 The agency shall provide the county with information necessary to allow the county to issue AAP payments and authorize the issuance of Medi-Cal cards.
- .11 At the time that the adoption assistance agreement is signed and a beginning date of payment is known, the agency shall complete the Payment Instructions for Adoption Assistance Program form (AAP 2) and shall send the AAP 2 along with the "Federal Eligibility Information for Adoption Assistance Program" (FC 9) and "Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program" (FC 10) to the county.
- .111 The child's adoptive name shall be used on the AAP 2 and all related correspondence with the county.

HANDBOOK

- (a) The AAP 2 triggers the creation of a new county payment case record that, for reasons of confidentiality, must in no way identify former county case records, names or numbers.

- (b) Welfare and Institutions Code Section 16118(d) states:

"Welfare and Institutions Code Section 16118(d): The county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Section 16120 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to Families with Dependent Children program if the child were not adopted. The county of responsibility for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

- 112 Once established, county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.
- 113 The agency shall send a new payment instruction form to the county within five working days of the date upon which it becomes aware of any change in family circumstances which would result in a change in payment or change in the child's name, payee name, or address.
- (a) Upon receipt of the payment instruction form, the county shall issue payments as instructed.
- (b) In a placement involving more than one agency, the following additional requirements shall be met:
- (1) The AAP 2 shall be initiated by the adoptive parents' agency, and shall be sent by that agency to the child's agency.
- (2) The child's agency shall indicate its concurrence by signing the AAP 2 and forwarding it to the county responsible for federal eligibility determination and payment, with a copy to the adoptive parents' agency.
- (3) The form shall have no effect unless signed by both agencies.
- (c) In cases where payments are initiated as a result of a deferred payment agreement as described in MPP Section 70-703.3, the payment instruction form shall be sent when the beginning date of payment is determined.

HANDBOOK

- (d) Eligibility and Assistance Standards (EAS) 45-804.322 states: "EAS 45-804.322: The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date on which the county receives

the Payment Instructions for AAP form from the agency authorizing payment."

Authority: Welfare and Institutions Code Sections 10553 and 16118; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Section 16118; and 42 USC Section 673.

Adopt new Section 70-705 to read:

70-705 AAP RECERTIFICATION

70-705

- .1 A recertification process shall be completed two years from the beginning date of AAP payment or from the effective date of the last change in payment.

HANDBOOK

- .11 EAS 45-805.1 states: "EAS 45-805.1: The county shall mail the adoptive parent(s) the Recertification Information form [AAP 3] between 60 and 70 calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed."
- .12 EAS 45-805.2 states: "EAS 45-805.2: Recertification shall be due two years from the later of either the beginning date of payment or the effective date of change in payment resulting from the most recent Payment Instruction for AAP [AAP 2] form."
- .13 EAS 45-806.2 states: "EAS 45-806.2: The county shall send adequate notice of action prior to recertification between 60 and 70 days prior to the ending date of payment as specified in the adoption assistance agreement."
- .14 The agency shall review the completed Recertification Information form (AAP 3).
- .15 If the agency determines that a change in the amount of payment is necessary, the adoptive parents' concurrence shall be obtained prior to changing the amount of payment.
- .16 Within five working days of completion of the recertification process, including obtaining of concurrence if necessary, the agency shall complete and send to the county an AAP 2 indicating the following:
- .161 The agency's decision regarding recertification of the child's continued eligibility for payment
- .162 Any changes in payment amount
- .163 The effective date of any such changes.

•17' In the case of an adoption assistance agreement authorizing payments which terminate prior to the first recertification, or between subsequent recertifications, the agency shall not authorize payments beyond the termination date unless the following requirements are met:

•171 The agency shall notify the county if the adoptive parents request an extension of adoption assistance payments.

•172 The county shall send a recertification information form to the adoptive parents.

•173 There shall be an interview with the adoptive parents in person or by telephone for the purpose of:

(a) Confirming entries on the recertification information form

(b) Collecting any additional information needed by the agency for determination of payment amount and duration

(c) Informing the adoptive parents of their rights and responsibilities under the agreement.

HANDBOOK

•18 EAS 45-805.3 states: "EAS 45-805.3: If the county has not received the Payment Instructions for AAP form [AAP 2] by the tenth of the month prior to the date recertification is due, the county shall discontinue payment."

Authority: Welfare and Institutions Code Sections 10553 and 16118; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Sections 16120 and 16121; and 42 USC Section 673.

Adopt new Section 70-706 to read:

70-706 NOTICE OF ACTION

70-706

- 1 The agency shall notify the county regarding any of the following:
 - 11 Denial of request for adoption assistance benefits
 - 12 Authorization of the initial grant
 - 13 Completion of the recertification process
 - 14 Payment termination
 - 15 Any change in grant amount.

Authority: Welfare and Institutions Code Sections 10553 and 16118; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Section 10950; and 45 CFR Sections 205.10 and 1355.30.

Adopt new Section 70-707 to read:

70-707 CONTINUATION OF AID FOR THE ADOPTION OF
CHILDREN (AAC)

70-707

- .1 The agency shall follow the provisions of Welfare and
Institutions Code Section 16121(c) for those adoption
assistance agreements which were in effect prior to October
1, 1982.

HANDBOOK

- .11 Welfare and Institutions Code Section 16121(c) states:

"Welfare and Institutions Code Section 16121(c):
Children on whose behalf an aid for adoption of children
agreement had been executed prior to October 1, 1982,
shall continue to receive aid for adoption of children
benefits in accordance with the terms of that agreement.

This aid for adoption of children agreement may be
renewed, provided total benefits do not exceed five
years. Prior to the end of the five-year period, if
there is a continuing need related to a chronic health
condition of the child which necessitated the initial
financial assistance, a parent may petition the
department or the designated licensed adoption agency to
continue financial assistance. The amount of financial
assistance and the time period for which it may be
given, shall be determined by the department or the
agency but shall not exceed the age of majority of the
child. Prior to the expiration of the extension period,
if there is a continuing need, a parent may petition the
department or the designated licensed adoption agency
for a new period of termination. The department or the
agency shall make its determination regarding the
financial ability of the parents to meet the continuing
medical needs of the child, related to the child's
health condition at the time of adoption, taking into
consideration community resources."

- .2 For purposes of this section, a chronic health condition
shall include one or more of the following conditions present
at placement and of such nature as to make adoptive homes
unavailable to the child without financial assistance:

.21 Physical or mental disability present at birth or
resulting from disease or injury

.22 Emotional disturbance

- .23 History of either injury prior to adoptive placement, physical disease, or emotional disturbance which may manifest itself in some form of physical, mental, or emotional disability after completion of the adoption.

Authority: Welfare and Institutions Code Section 10553; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Section 16121.

Adopt new Section 70-708 to read:

70-708 DOCUMENTATION OF AAP ELIGIBILITY

70-708

- .1 To maintain confidentiality of the adoption case record, the agency shall maintain copies of the following documents separate from the adoption case record:
 - .11 The adoption assistance agreement
 - .12 Verification that the child meets the definition of a special needs child
 - .13 The original and subsequent financial assistance authorizations, including information regarding the establishment of federal eligibility/linkage and documentation supporting the amount of the payment
 - .14 Completed recertification documents
 - .15 Payment instructions sent to the county
 - .16 All correspondence from the county, including notices of action.

Authority: Welfare and Institutions Code Sections 10553 and 16118; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Sections 16118 and 16120; and 42 USC Sections 671 and 673.

Adopt new Chapter Heading to read:

Chapter 70-800 Adoption of Children with Indian Heritage

Adopt new Section 70-801 to read:

70-801 ADDITIONAL AGENCY REQUIREMENTS FOR ADOPTION OF 70-801
CHILDREN WITH INDIAN HERITAGE

- .1 In working with children who could be subject to the provisions of the ICWA and/or be eligible for a certificate of Indian blood and the birth parents of such children, the additional requirements of MPP Chapter 70-800 shall be met.
- .2 The requirements of this chapter shall not apply to adoptions in which a final decree of adoption was issued prior to May 8, 1979.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10553.

Repeal Section 70-802:

70-802 CUSTODY, USE AND PRESERVATION OF ADOPTION
CASE RECORDS

70-802

- .1 All adoption case records maintained or made in the process of providing adoption services are confidential and except as provided for in this section, the agency or the Department shall not disclose any information contained in an adoption case record for any purpose not directly connected with the adoption.
- .2 The department shall be permitted to disclose information to an adopted person which is limited to general background information pertaining to the adopted person's birth parents.
 - .21 Such information shall not include or reveal the identity of the birth parents.
- .3 The agency or the department shall disclose medically necessary information pertaining to the adopted person's birth parents to the child or grandchild of the adopted person.
 - .31 Such medically necessary information shall not include or reveal the identity of the birth parents.
- .4 The agency or the department shall be permitted to arrange for contact among an adult adoptee, his or her birth parent and any living adoptive parent if each of these persons has filed a written waiver of his/her rights with respect to the confidentiality of adoption records with the agency or with the department.
 - .41 Neither the department nor the agency shall solicit directly or indirectly such a waiver.
 - .42 The waiver shall be in the format prescribed by the department.
- .5 The department or agency shall provide a copy of the medical report with the names and addresses of any persons contained in the report removed unless the person requesting the report has previously received the information pursuant to Civil Code Section 227b to:
 - .51 The person who has been adopted and who has attained the age of 18 or who presents a certified copy of his/her marriage certificate.

.52 The adoptive parent of a person under the age of 18.

Authority: Welfare and Institutions Code Sections 10553,
10554, 10850(d), and 16141.

Reference: Civil Code Sections 224s, 230.6, and 1798.24r and
s.

Adopt new Section 70-802 to read:

70-802 CERTIFICATION OF DEGREE OF INDIAN BLOOD (CDIB), 70-802
TRIBAL MEMBERSHIP ELIGIBILITY, AND/OR TRIBAL
ENROLLMENT

- .1 The agency shall obtain sufficient information from the
parents of a child as required by MPP Section 70-204 so that
it can be determined:
 - .11 Whether the child meets the definition of an Indian
child in accordance with 25 USC Section 1903(4), and
 - .12 Whether a CDIB can be issued.

HANDBOOK

- .121 USC 1903 can be found at MPP Section 70-100ee.
- .122 The child may need to be enrolled in his/her tribe
in order to obtain the certification.
- .123 Civil Code Section 224a reads as follows:

"Civil Code Section 224a: The State Department of Social Services shall adopt such rules and regulations as it determines are reasonably necessary to assure that a parent or parents of Indian ancestry, seeking to relinquish a child for adoption, provide sufficient information to the licensed adoption agency or to the State Department of Social Services so that a certificate of degree of Indian blood can be obtained from the Bureau of Indian Affairs. The State Department of Social Services shall immediately request a certificate of degree of Indian blood from the Bureau of Indian Affairs upon obtaining the information. A copy of all documents pertaining to the degree of Indian blood and tribal enrollment, including a copy of the certificate of degree of Indian blood, shall become a permanent record in the adoption files and shall be housed in a central location and made available to authorized personnel from the Bureau of Indian Affairs when required to determine the adoptee's eligibility to receive services or benefits because of the adoptee's status as an Indian. This information shall be made available

to the adopted person upon reaching the age of majority."

- .2 The agency shall complete all requested information on the form prescribed by the department to the extent that the information is ascertainable from the birth parents and extended family members and other sources of information.

HANDBOOK

- .21 Form AD4311 (Information on the American Indian Child (Adoption Program)) is used for this purpose.
- .22 Examples of other sources of information are foster care case records, previous workers and, provided confidentiality is not breached, extended family and/or tribal members.

- .3 The agency shall immediately submit the completed Form AD 4311 and a certified copy of the child's birth certificate to the department.

HANDBOOK

- .31 The department will forward the AD 4311 and the copy of the birth certificate to the BIA, Sacramento area office.
 - .311 The appropriate BIA office or Indian tribe to which the AD 4311 is subsequently relayed will confirm tribal membership eligibility and provide the CDIB and will respond directly to the adoption agency.
 - .312 Processing by the BIA or tribe may be expedited by attaching copies of the birth certificate of the Indian parent and their Indian ancestors to the AD 4311.
 - .313 The agency should work cooperatively with the BIA or tribe to enroll the child in his/her tribe if such enrollment is required by the tribe in order for a CDIB to be completed by the tribe. The agency should also cooperate with the BIA or tribe to enroll the child so that the child may receive possible tribal benefits currently or in the future. The BIA should be informed on the AD 4311

of any birth parent's request for anonymity as special procedures for enrollment may be necessary.

- .32 Upon receipt of a CDIB from the BIA or tribe, the agency shall send a copy of the CDIB to the department.

HANDBOOK

- .4 When it is determined by the BIA or the tribe that the child meets the definition of an Indian child, the agency shall follow the provisions of MPP Sections 70-804.2 through 70-808.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Civil Code Section 224a; and 25 USC Section 1903(4).

Adopt Section 70-803 to read:

70-803 BACKGROUND INFORMATION

70-803

.1 The agency shall attempt to ascertain the following background information:

.11 Name, address, date, place of birth, and tribal affiliation of the child and of any parent, grandparent, or great-grandparent with Indian heritage

.12 Names and addresses of extended family members

.13 Tribal customs regarding child placement practices

.14 Addresses where tribal governing organizations may be located.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Civil Code Section 224a; and 25 USC Section 1903(4).

Adopt Section 70-804 to read:

70-804 INFORMATION TO PARENTS OF A CHILD WITH INDIAN 70-804
HERITAGE REGARDING PROVISIONS OF THE ICWA

- .1 The agency shall inform the parents of a child with Indian heritage that:
 - .11 The provisions of the ICWA shall apply if at least one parent is a member of an Indian tribe as defined at MPP Section 70-100(jj) and the child is an Indian child as defined at MPP Section 70-100(ee).
- .2 The agency shall inform the parents of a child subject to the ICWA of the act's provisions which include:
 - .21 The requirement for an order of placement preference.

HANDBOOK

- .211 Title 25 USC 1915(a) reads in relevant part regarding the order of placement preference:

"Title 25 USC 1915(a): In any adoptive placement of an Indian child under state law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with:

- (1) a member of the Indian child's extended family;

- (2) a foster home licensed, approved, or specified by the Indian child's tribe;
 - (3) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - (4) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
- (c) In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: Provided, that where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.
- (d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties."

.212 If the parent requests modification of the placement order in an agency adoption, the request shall be brought to the attention of the court for a decision on whether the placement order shall be modified.

.213 In an independent adoption, the court shall be advised that the parent has been made aware of the order of placement preference and has made the decision to consent to the adoption by the petitioners.

- .22 The requirement that the relinquishment or consent must be taken before a judge of the Superior Court.

HANDBOOK

- .221 Title 25 USC 1913(a) reads in regard to the voluntary termination of parental rights:

"Title 25 USC 1913(a): Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid."

- .23 The requirement that the parent may withdraw consent or revoke or rescind relinquishment at any time prior to the entry of the final decree of adoption.

HANDBOOK

- .231 Title 25 USC 1913(c) reads in regard to withdrawal of consent: "Title 25 USC 1913(c): In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent."

- .24 The requirement that, in the event the parent who gave physical custody of the child to the agency or petitioners and has not otherwise been deprived of legal custody requests to revoke or rescind the relinquishment or withdraw the consent, or refuses to give consent, the following procedures shall be followed:

•241 In an independent adoption:

- (a) If the consent has not been signed and the parent wishes return of the child, the parent rather than the agency will request the petitioners to return the child. If the petitioners refuse, the agency shall immediately file a report with the court and recommend the child's return.
- (b) If the consent has been signed, the agency shall immediately file a report with the court advising the court of the parent's request and recommending that the child be returned to the parent.

•242 In an agency adoption:

- (a) If the parent's request precedes adoptive placement the agency shall rescind the relinquishment and return the child to the parent.
- (b) If the parent's request follows an adoptive placement, the agency shall immediately notify the adoptive parents and return the child to the parent within an agreed upon time period, which would ordinarily not exceed three working days.
 - (1) In no case shall the return of the child require more than seven calendar days following the parent's request unless an interlocutory decree has been granted, in which case the parent's request shall be brought immediately to the attention of the court.

•243 Any other parent whose consent has been taken or whose relinquishment has been filed shall immediately be notified of the request to revoke or rescind the relinquishment or withdraw the consent and shall be notified of any court proceedings resulting from the request.

HANDBOOK

- 244 Deprivation of legal custody refers to situations in which the court has ordered the child removed from his/her parent as in a divorce situation or in cases in which the child is made a dependent or ward of the court.
- 25 The requirement that, in the event that the parent who did not give physical custody of the child to the agency or petitioners, or the parent who has been deprived of legal custody, requests revocation or rescission of the relinquishment or withdrawal of the consent, the following procedures shall be followed:
- 251 In an independent adoption, the agency shall ensure that the petitioners are advised that court proceedings will be necessary to determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed.
- 252 In an agency adoption, the agency shall initiate court proceedings which will determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed.
- 253 The agency shall ensure that any other parent whose consent has been taken or whose relinquishment has been filed is notified of the request to revoke or rescind the relinquishment or withdraw the consent and notified of any court proceedings resulting from the request.
- 26 The requirement that if the agency or petitioners initiate legal proceedings to involuntarily terminate the parent's rights to the Indian child, the tribe shall be notified and may intervene in the proceedings.

HANDBOOK

- 261 Title 25 USC 1912(a) reads in relevant part in regard to involuntary termination of parental rights:
- "Title 25 USC 1912(a): In any involuntary proceeding in a state court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of

the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: Provided, that the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding."

- .27 The requirement that the parent will be notified if the adoption petition is withdrawn, dismissed, or denied or the adoption is set aside.

HANDBOOK

- .271 Title 25 USC 1916 reads in relevant part in regard to adoption set asides:

"Title 25 USC 1916: Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing in a proceeding subject to the provisions of section 1912 of this title, that such return of custody is not in the best interests of the child."

- .272 The agency shall inform the parent that he/she must keep his/her name and address current with the agency so that notice can be provided.

- .273 The agency reporting on the petition that is withdrawn, dismissed, or denied, or on the set aside shall provide written notice to the parent.

- .28 The requirement that upon petition of either parent, the Indian custodian or the Indian child's tribe, all court proceedings with regard to the child shall be transferred to the jurisdiction of the tribal court,

providing there is no good cause to the contrary, and neither parent objects to the petition and the tribal court does not decline the transfer.

HANDBOOK

- 281 Title 25 USC 1911 reads in relevant part in regard to transfer of court proceedings:

"Title 25 USC 1911:

- (a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the state by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.
- (b) In any State court proceeding for the termination of parental rights to an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: Provided, That such transfer shall be subject to declination by the tribal court of such tribe."

- 29 The requirements for release of information concerning the adoption and the adopted child's Indian heritage as follows:

- 291 The adopted child, when he/she reaches age 18, may request and receive information from the court as provided for in 25 USC 1917.

HANDBOOK

- (a) Title 25 USC 1917 reads as follows: "Title 25 USC 1917: Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship."

•292 That the court which granted the adoption is required by the Act to provide information to the Secretary of the Interior as specified in 25 USC 1951 and the parent who wishes his/her identity to remain confidential will need to file an affidavit with the court requesting confidentiality.

HANDBOOK

- (a) Title 25 USC 1951(a) and (b) read as follows: "Title 25 USC 1951: (a) Any State court entering a final decree or order in any Indian child adoptive placement after November 8, 1978, shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show -

- (1) the name and tribal affiliation of the child;
- (2) the names and addresses of the biological parents;
- (3) the names and addresses of the adoptive parents; and
- (4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The

Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act, as amended.

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe."

(a) The agency shall request the parent to provide a copy of the affidavit for filing in the adoption case record.

•293 That although the Secretary of the Interior is required by the Act to insure confidentiality, some Indian tribes, if they know of the adoption, may not maintain confidentiality.

•294 That upon request the department will make available to authorized personnel from the Bureau of Indian Affairs and the adopted child who has reached age 18 information as specified in Civil Code Section 224a.

HANDBOOK

(a) The content of Civil Code Section 224a is found at Section 70-802.123.

- .3 The agency shall inform the parents of a child subject to the provisions of the ICWA that within five years of the time a decree of adoption is granted, the parent may petition the court to set aside a decree of adoption upon the grounds that the consent or relinquishment was obtained through fraud or duress.

HANDBOOK

- .31 Title 25 USC 1913(d) reads in regard to the set aside of an adoption decree:

"Title 25 USC 1913(d): After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under state law."

- .32 Civil Code Section 227d reads in pertinent part:

"Civil Code Section 227d: Any action or proceeding of any kind whatsoever to vacate, set aside, or otherwise nullify a decree of adoption on the ground of any defect or irregularity of procedure in the adoption proceeding must be commenced within three years after entry of the decree."

- .4 The agency shall inform the parent of a child subject to the provisions of the ICWA that the parent may petition the court to invalidate any action that terminated parental rights if termination procedures did not comply with the ICWA.

HANDBOOK

- .41 Title 25 USC 1914 reads in regard to the invalidation of termination proceedings:

"Title 25 USC 1914: Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of

competent jurisdiction to invalidate such action upon a showing that such action violated any provision of Sections 1911, 1912, and 1913 of this title."

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 25 USC Sections 1911, 1912(a), 1913(a), 1913(c), 1913(d), 1914, 1915(a), 1916, 1917, and 1951; and Civil Code Section 227(d).

Adopt Section 70-805 to read:

70-805 FREEING THE INDIAN CHILD FOR ADOPTION

70-805

•1 Voluntary Termination of Parental Rights.

- 11 The agency shall meet the requirements of 25 USC 1913 in accepting the relinquishment of or consent to adoption of an Indian child.

HANDBOOK

- 111 Title 25 USC 1913 reads in relevant part as follows:

"Title 25 USC 1913:

- (a) Where any parent or Indian custodian voluntarily consents... to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted in a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

- (c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent."

•2 Involuntary Termination of Parental Rights.

- 21 The agency shall meet the requirements of 25 USC 1912 when parental rights to an Indian child are terminated involuntarily.

HANDBOOK

- 211 Title 25 USC 1912 reads in relevant part as follows:

"Title 25 USC 1912:

- (a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.
- (b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the

presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.

- (c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.
- (d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.
- (f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child."

•22 The notice required by 25 USC 1912(a) shall contain the following:

- (a) The names, dates, and places of birth of the Indian child, his parents or Indian custodian
- (b) The maiden name of the child's mother
- (c) Tribal affiliation of the child and the parents when known
- (d) A copy of the petition, complaint or other document by which the proceeding was initiated
- (e) The name of the petitioner and the name and address of the petitioner's attorney
- (f) A statement of the right of the biological parents or Indian custodians and the Indian child's tribe to intervene in the proceeding

- (g) A statement that if the parents or Indian custodians are unable to afford counsel, counsel will be appointed to represent them
- (h) A statement of the right of the parents or Indian custodians and the Indian child's tribe to have on request, twenty days or such additional time as may be permitted under state law to prepare for the proceedings
- (i) The location, mailing address, and telephone number of the court
- (j) A statement of the right of the parents or Indian custodians or the Indian child's tribe to petition the court to transfer the proceedings to the Indian child's tribal court
- (k) The potential legal consequences of an adjudication on future custodial rights of the parents or Indian custodian
- (l) A statement that since child custody proceedings are usually conducted on a confidential basis, tribal officials should keep confidential the information contained in the notice concerning the particular proceeding and not reveal it to anyone who does not need the information in order to exercise the tribe's right under the ICWA.

HANDBOOK

- 221 Any notification of the proceedings to the Secretary pursuant to MPP Section 70-805.22(a) should be addressed to: Sacramento Area District Office, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.
- 23 If the parent is an unmarried father who has not acknowledged paternity and whose paternity has not been established, such notice shall not be required.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference:

25 USC Sections 1912 and 1913; Guidelines to State
Courts; Indian Child Custody Proceedings FR
Vol. 44, No. 228, Part III, Nov. 26, 1979.

Adopt Section 70-806 to read:

70-806 INFORMATION TRANSMITTED TO APPLICANTS
IN AGENCY ADOPTIONS

70-806

- .1 Prior to the placement of an Indian child for adoption, the agency shall inform the applicant of the birth parents' right to:
- .11 Rescind the relinquishment and have the child returned at any time prior to the entry of a final decree of adoption by the court.

HANDBOOK

- .111 Title 25 USC 1913(c) reads as follows:

"Title 25 USC 1913(c): In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent."

- .12 Petition the court within five years of the granting of the final decree of adoption to set aside a decree of adoption upon the grounds that the relinquishment was obtained through fraud or duress.

HANDBOOK

- .121 Title 25 USC 1913(d) reads in regard to the set aside of an adoption decree:

"Title 25 USC 1913(d): After the entry of a final decree of adoption of an Indian child in any State Court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this

subsection unless otherwise permitted under state law."

- 122 Civil Code Section 227d reads in pertinent part:

"Civil Code Section 227d: Any action or proceeding of any kind whatsoever to vacate, set aside, or otherwise nullify a decree of adoption on the ground of any defect or irregularity of procedure in the adoption proceeding must be commenced within three years after entry of the decree. Any action or proceeding of any kind whatsoever to vacate, set aside, or otherwise nullify a decree of adoption on any ground other than a defect or irregularity of procedure must be commenced within five years after entry of the decree."

- 13 Petition the court to invalidate any action terminating parental rights if termination procedures did not comply with the ICWA.

HANDBOOK

- 131 Title 25 USC 1914 reads in regard to the invalidation of termination proceedings:

"Title 25 USC 1914: Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of Sections 1911, 1912, and 1913 of this title.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 25 USC Section 1913(c). Section 227d.

Adopt Section 70-807 to read:

70-807 PLACEMENT AND SUPERVISION IN AN AGENCY ADOPTION 70-807

.1 The agency shall:

- .11 Enter into a placement agreement which includes, in addition to the requirements of MPP Section 70-507.5, confirmation that the prospective adoptive parents were advised of the birth parent's rights as specified at Sections 70-806.11, .12 and .13.
- .12 Document in the adoption case record the basis used to comply with the order of placement preference or the reason for any failure to comply. A copy of the court order and documentation establishing good cause to the contrary for failing to comply shall be attached to the Notice of Placement sent to the department.

HANDBOOK

- .121 Title 25 USC 1915 reads in relevant part regarding the order of placement preference:

"Title 25 USC 1915(a): In any adoptive placement of an Indian child under state law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families."

- .122 Title 25 USC 1915(e) reads in regard to records of placement of Indian children:

"Title 25 USC 1915(e): A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe."

- .13 Immediately bring to the attention of the court a parent's request to rescind the relinquishment and/or reclaim the child in cases in which an interlocutory decree of adoption has been granted.

Authority: Welfare and Institutions Code Sections 10553 and
10554.

Reference: 25 USC Sections 1913(c) and 1915(b)(3).

Adopt Section 70-808 to read:

70-808 INFORMATION TRANSMITTED TO PETITIONERS
IN AN INDEPENDENT ADOPTION

70-808

- .1 During the investigation of the adoption petition, the agency shall advise the petitioners that:
 - .11 The provisions of the ICWA apply to the non-Indian parent of an Indian child as well as to the Indian parent.
 - .12 The birth parent may withdraw his/her consent and has the right to have the child returned to him/her at any time prior to the issuance of a final decree of adoption.
 - .13 The procedures pursuant to MPP Section 70-805.21 will be followed if it is necessary to terminate parental rights involuntarily.

Authority: Welfare and Institutions Code Sections 10553 and 10557.

Reference: 25 USC Sections 1903(9), 1913(c), and 1912.

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED
In the office of the Secretary of State
of the State of California

SEP 14 1987
At 4:05 o'clock P.M.
MARCH FONG EU, Secretary of State
By Richard Bates
Deputy Secretary of State

ENDORSED
APPROVED FOR FILING

SEP 14 1987

Office of Administrative Law

State Department of Social Services

(AGENCY)

John S. McLaughlin

AGENCY OFFICER WITH RULEMAKING AUTHORITY

For use of Office of Adm Law

Date: September 2, 1987

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark Chief, Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

69-208.6 and .7; 69-209, 69-210, 69-211

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER	b. DATE OF FINAL AGENCY ACTION	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
<u>Not Applicable</u>	<u>September 2, 1987</u>	<u>Not Applicable</u>

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
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- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
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 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
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The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON
Director

Renumber and amend 69-208.6 and .7 to 69-209, with subsections .1 through .6, to read:

69-208 REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED 69-208
EDUCATION/TRAINING REQUIREMENTS (Continued)

69-209.6 CAUSE DETERMINATIONS AND CONCILIATION

69-209.6

.1 General

If recipient fails or refuses to participate/cooperate in the RDP/RCA program as required, the CWD shall make a cause determination. If the recipient is found to be without good cause for nonparticipation/noncooperation, the CWD shall conciliate any dispute before the Notice of Action is issued. Cause determination and conciliation shall be completed within 30 calendar days of learning or being advised that the individual has refused to participate/cooperate in the RDP/RCA program as required.

~~612~~ Conditions Under Which Cause Determination ~~Must~~ Shall Be Made

Using the criteria found in Section 69-208~~.629~~.3, the CWD shall make a cause determination upon ~~within 10 working days of learning or~~ being advised that the nonexempt refugee who is an RDP or RCA applicant or recipient has:

- ~~.611~~21 Failed to register or participate with a DSS-funded or CWD approved or referred employment-directed program as required; or
- ~~.612~~22 Failed to register or to maintain registration with EDD as required; or
- ~~.613~~23 Failed to comply with the requirements contained in Section 69-208.22; or
- ~~.614~~24 Failed to comply with the requirements contained in Section 69-208.32; or
- ~~.615~~25 Failed to meet the requirements contained in Section 69-208.5.

.623 Factors That Must Be Considered in Cause Determinations

The CWD must include the following determinations, as appropriate, in considering whether good cause exists for failure to meet or comply with requirements regarding registration, employment, and employment-directed education/training.

- .62131** There must be a determination that a bona fide offer of employment or employment-directed education/training was made to the individual. A bona fide offer of employment or employment-directed education/training may originate from any source, approved or referred by the CWD (including DSS-funded program) and may be temporary, permanent, full-time, part-time, or seasonal work.
- .62232** There must be a determination that the individual failed to register or participate with a CWD approved or referred employment-directed program or refused to accept the bona fide offer of employment or employment-directed education/training as planned, or that the individual quit or was discharged from employment or employment-directed education/training.
- .62333** There must be a determination that a) EDD arranged an employer interview for the refugee or, b) EDD requested the refugee to report to EDD.
- .62434** There must be a determination that the refugee a) failed to register or maintain registration with EDD, b) failed to accept a referral to or appear for an employment interview arranged by EDD, or c) failed to report to EDD when requested.
- .62535** The individual must be given an opportunity to explain why a) the offer was not accepted, b) the employment or employment-directed education/training was discontinued or c) why he/she failed to comply with the EDD registration requirements or the requirements of the education/training program.
- .62636** The individual must be informed of the effect the refusal to accept or continue employment or employment-directed education/training, or failure to comply with the EDD registration requirements, without good cause, will have on his/her receipt of RDP or RCA.

**•634 Good Cause for Failure or Refusal to Meet or Comply with the
Registration, Employment and Employment-Directed
Education/Training Requirements.**

Good cause exists when:

- a. The employment-directed education/training or employment was available due directly to a bona fide strike or lockout; or
- b. The individual would be required to work for an employer contrary to the conditions of his/her existing membership in the union governing that occupation (employment not governed by the rules of a union in which the individual has membership may be deemed appropriate by the CWD); or
- c. The employment or training site violated applicable health and safety laws and regulations; or
- d. The employment or employment-directed education/training was in excess of the individual's mental or physical capacity. Any claim of adverse effect on physical or mental health shall be based on an adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health; or
- e. The offer of employment was from an employer who did not: possess an appropriate license to engage in his/her business; withhold or hold in trust the employee contributions required by Part 2 of Division 1 of the UI Code (Section 2601, et seq.) for unemployment compensation disability benefits or did not transmit all such employee contributions to EDD as required by Section 986 of the UI Code; carry either workers' compensation insurance or possess a certificate of self-insurance as required by Division 4 of the Labor Code (Section 3201, et seq.); or
- f. The wage does not meet or exceed the federal or state minimum wage law, whichever is applicable; or if such laws are not applicable, the wage is less favorable than the wage normally paid for similar work in that labor market, or, in any event, is less than three-fourths of the minimum wage rate; or

- g. The daily hours of work and the weekly hours of work exceed those customary to the occupation; or
- h. The individual was employed in bona fide employment more than 20 hours during that week, and the hours of such employment prevented the refugee from being able to fulfill the registration or employment-directed education/training requirements; or
- i. The individual had a definite offer of full-time employment (100 hours or more per month); or
- j. The individual has a definite promise of recall to full-time employment with a former regular employer to start within 30 calendar days of the failure to meet or comply with the requirements of Sections 69-208.1 through 69-208.3 and 69-208.51; or
- k. The individual was prevented from participating or reporting due to physical or mental incapacity; or
- l. The individual was ill or was required to care for an ill member of the FBU because no other care arrangements were feasible; or
- m. Child care arrangements could not be made; or
- n. The individual was without transportation due to circumstances beyond his/her control and was without other means of transportation; or
- o. The total daily commuting time to the employment or educational/training site and return, would normally exceed two hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance and distance is generally accepted in the community, in which case the round trip commuting time shall not exceed the generally accepted community standards; or
- p. The employment or training violated laws and regulations pertaining to discrimination based on age, sex, race, creed, color, or national origin; or
- q. The individual had other substantial and compelling reasons for failure to meet or comply with the requirements of Section 69-208.

.5 Conciliation

.51 If the CWD determines that no good cause existed for the failure or refusal to meet program requirements, the CWD shall try to resolve the recipient's failure to cooperate before the Notice of Action is issued. The CWD shall complete cause determination and conciliation within 30 calendar days of learning or being advised that the nonexempt refugee individual has refused to participate/cooperate in the RDP/RCA program as required. The conciliation shall begin on the date of the cause determination.

.52 Conciliation may be terminated sooner by either the CWD or by the recipient's written request if at any time it is apparent to either that the dispute cannot be resolved.

.521 The CWD may end the conciliation early if it is apparent that the recipient will not cooperate, e.g., continues to refuse to report to CIU and/or training and employment services, or otherwise demonstrates unwillingness to cooperate. A timely Notice of Action shall be sent.

.522 The CWD shall inform the recipient of the right to terminate the conciliation and to receive assistance from the CWD in preparing the written request.

.53 In order to resolve the dispute during conciliation, the CWD may have to coordinate with the CIU and/or service provider.

.54 The CWD shall develop a written conciliation plan specifying the actions the recipient shall take to demonstrate cooperation with registration, employment, and employment-directed education/training requirements.

.541 The recipient has the right to propose an alternate conciliation plan. However, the CWD shall make the final decision regarding the terms of the plan.

.542 The CWD shall give a copy of the plan to the recipient.

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.55 If the recipient follows the terms of the conciliation plan, he/she shall continue to participate in the RCA/RDP program.

.551 The CWD shall notify the recipient in writing of the successful completion of conciliation.

.56 If the conciliation process is unsuccessful in resolving the conflict, see Section 69-209.6 (Penalties for Failure or Refusal to Comply with the Registration, Employment and Employment-Directed Education/Training Requirements).

.76 Penalties for Failure or Refusal to Comply With the Registration, Employment and Employment-Directed Education/Training Requirements

.761 If the nonexempt RDP or RCA applicant or recipient has refused or failed, without good cause, to meet or comply with the requirements of Section 69-208.1 through 69-208.3 and 69-208.5, the CWD shall deny or discontinue benefits for that individual.

.7611 Except as provided in Sections 69-208.5 and 69-208.73, a noncomplying recipient shall be ineligible for RCA benefits for three payment months for the first occurrence and six payment months for the second and subsequent occurrences from the date of discontinuance for refusal or failure to comply without good cause. Aid continues to the rest of the assistance unit if the members are otherwise eligible.

.7612 Except as provided in Sections 69-208.5 and 69-208.73, the noncomplying individual shall be ineligible for RDP benefits for three payment months for the first occurrence and six payment months for the second and subsequent occurrences from the date of discontinuance for refusal or failure to comply without good cause. Aid continues to the rest of the assistance unit if the members are otherwise eligible, except that:

- a. If the noncomplying individual is the unemployed parent, aid shall be discontinued to the entire assistance unit for the duration of the penalty period.
- b. If the noncomplying individual is the caretaker relative, his/her aid shall be discontinued for the duration of the penalty period, and aid shall be continued to the remainder of the assistance unit in accordance with AFDC regulations.

.762 In the event aid is denied or discontinued, the following actions are required:

.7621 The refugee shall be given at least ten days advance written notice of the termination of assistance and the reason(s) therefore. (See MPP Section 22-001.)

- 7622 Discontinuance shall be effective at the end of the month in which the ten days expire.
- 7623 If the noncomplying refugee is a caretaker relative, assistance in the form of protective or vendor payments will be provided to the remaining members of the budget unit.
- 7624 The noncomplying refugee may request restoration of assistance at any time after the termination of assistance because of refusal or failure to comply. The effective date of restoration, however, shall be no earlier than the day after the completion of the penalty period.
- 763 There is no durational penalty attached to a failure or refusal to register with the employment education/training program(s) or EDD.
- 7631 The noncomplying individual in an RCA assistance unit shall be ineligible for RCA benefits until he/she has registered as required. Other nonexempt individuals in the assistance unit who fail or refuse to register shall be ineligible for RCA benefits.
- 7632 An RDP assistance unit shall be ineligible for RDP benefits until the RDP-U parent has registered as required. Other nonexempt individuals in the assistance unit who fail or refuse to register shall be ineligible for RDP benefits.
- 7633 A nonexempt RDP-FG individual shall be ineligible for RDP benefits until he/she has registered as required. Aid continues to the remainder of the assistance unit unless the RDP-FG individual who fails or refuses to register is the only eligible child in the assistance unit, in which case, the entire assistance unit is ineligible for RDP benefits.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Dang, et al. v. McMahon, et al., Court Order of the Superior Court of Alameda County.

Renumber Sections 69-209, 69-210, and 69-211 to 69-210, 69-211, and 69-212 to read:

69-20910 AID PAYMENTS (Continued) 69-20910

69-2101 OVERPAYMENT/UNDERPAYMENT ADJUSTMENTS AND FRAUD 69-2101
REFERRALS (Continued)

69-2112 UNACCOMPANIED REFUGEE CHILDREN 69-2112
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Dang, et al. v. McMahon, et al., Court Order of the Superior Court of Alameda County.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED
In the office of the Secretary of State
of the State of California

SEP 14 1987
At 4:05 o'clock P.M.
MARCH EDONG EU, Secretary of State
By [Signature] Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-0903-01E

[Signature]
for LINDA HURDLE STOCKDALE BREWER
DIRECTOR

9/14/87
Date

87-0918-04E

(See Instructions on Reverse)

EMERGENCY FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RDB #0887-41

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED
In the office of the Secretary of State
of the State of California

SEP 25 1987

At 1:17 o'clock P.M.
MARSH FONG EM, Secretary of State

[Signature]
Deputy Secretary of State

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

SEP 26 1987

State Department of Social Services

(AGENCY)

[Signature]

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 9/17/87

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)		TITLE	TELEPHONE
Rosalie Clark, Chief		Regulations Development Bureau	445-0313
2. Type of filing, (check one)			
<input type="checkbox"/> 30-day Review		<input checked="" type="checkbox"/> Emergency	
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)		<input type="checkbox"/> Certificate of Compliance (Complete Part 4 below)	
<input type="checkbox"/> Nonsubstantive changes with nonregulatory effect		<input type="checkbox"/> Printing Error Correction	
3. a. Specify California Administrative Code title and sections as follows:			
Title <u>MPP</u>			
SECTIONS ADOPTED: (See attached list)			
SECTIONS AMENDED: (See attached list)			
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b. The following sections listed in 3a contain modifications to the text originally made available to the public:			
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<input type="checkbox"/> prior to the emergency adoption			
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5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?			
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL:			
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<input type="checkbox"/> State Fire Marshall (Attach approval)		<input checked="" type="checkbox"/> Department of Finance (Attach properly signed Std. 399)	
<input type="checkbox"/> Other (SPECIFY AGENCY)			
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Not Applicable	September 18, 1987	Not Applicable	
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)			
a. <input type="checkbox"/> Effective 30th day after filing with the Secretary of State.			
b. <input checked="" type="checkbox"/> Effective upon filing with the Secretary of State. (10-1-87)			
c. <input type="checkbox"/> Effective on _____ as required or allowed by the following statute(s):			
d. <input type="checkbox"/> Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)			
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- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

3. a. Specify Administrative Code title and Sections as follows:

Sections Adopted: 63-073; 63-407.211, .23 and .231; 63-407.312 and .313; 63-407.542 (a) and (b); 63-407.8, .81, .82, .83(title), and .831, .84, .85, .86, .87, and .88.

Title MPP

Sections Amended: 63-300.533a.; 63-301.541(d); 63-402.224, and .611; 63-407.1, .2, .21, .221, and .223; 63-407.31, .311, and .32; 63-407.4 and .41; 63-407.52, .53, .54, .541, .542, .55, .56, .561, and .57; 63-407.61, .62, .621, and .623; 63-407.91; 63-408.31 and .32; and 63-504.361(c).

Sections Repealed: 63-301.411(b); 63-407.21i., .221(a), (b), (c), (c) (1), and (c) (2); 63-407.33, .34, .35, and .36; 63-407.45 and .46; 63-407.52, .56, and .562; 63-407.621 and .621c.(1), (2) and (6); 63-407.8 (all); and 63-407.92.

Adopt Section 63-073 to read:

63-073 IMPLEMENTATION OF THE FOOD STAMP EMPLOYMENT AND 63-073
TRAINING PROGRAM REQUIREMENTS

The CWDs shall implement the revised provisions of these regulations effective October 1, 1987. The sections affected by these revisions are: Sections 63-300.533a; 63-301.411(b) and .541(d); 63-402.224 and .611; 63-407.1, .2, .21, .21(a)-(i), .211, .221, .221(a)-(c), .223, .23, .231; .31, .311-.313, .32-.36; .4, .41-.46; .52-.58; .61 and .62, .8, .91, and .92; 63-408.31 and .32; and 63-504.361(c) of the Manual of Policies and Procedures.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 272.1(g)(82).

Amend Section 63-300.533a. to read:

63-300 APPLICATION PROCESS (Continued)

63-300

•5 Verification (Continued)

•53 Verification of Questionable Information (Continued)

•533 Work Registration (Continued)

- a. If a household member's work registration exemption due to participation in WIN Demo or GAIN is questionable, the CWD shall be responsible for verifying that the household member is subject to and participating in the Work Incentive Program (WIN Demo or GAIN) under Title IV of the Social Security Act.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 63-301.411(b) and renumber Sections 63-301.411(c) and (d) to (b) and (c), respectively, and amend Section 63-301.541(d) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

•4 Delayed Actions (Continued)

•41 Determining Cause (Continued)

•411 (Continued)

(a) (Continued)

(b) If one or more members of the household have failed to register for work as required in 63-407.1, the CWD must have informed the household of the need to register for work and given the household at least 10 days from the date of notification to register these members.

(c) (Continued)

(d) (Continued)

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

•5 Expedited Services (Continued)

•54 Special Procedures for Expediting Service (Continued)

•541 (Continued)

(d) The applicant and all other household members shall be required to register for work prior to certification unless exempt from this requirement per Section 63-407.2. The applicant may complete the work registration Form DE 8435 FS for each household member required to register for employment. The CWD shall attempt to register all other household members subject to the requirements of Section 63-407.1 and to verify questionable work registration exemptions, but shall postpone these efforts if they cannot be

accomplished within expedited service time frames.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(c)(1).

Amend Sections 63-402.224 and .611 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.2 Nonhousehold and Excluded Household Members (Continued)

.22 Excluded Household Members (Continued)

.224 Workfare Sanctioned

Individuals sanctioned by a CWD while a participating member of a household disqualified for failure to comply with the requirements of the CWD's Workfare Program requirements operated in accordance with Section 63-407.91.

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.6 Authorized Representatives (Continued)

.61 (Continued)

- .611 Making application for the program. When the head of the household or the spouse cannot make application, another household member may apply or an adult nonhousehold member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. In conjunction with these provisions, another household member or the household's authorized representative may complete work registration forms (DE 3435 FS) for those household members required to register for work. The CWD shall inform the household that the household will be held liable for any overissuance which results from erroneous information given by the authorized representative, except as provided in Section 63-503.476. Adults who are nonhousehold members may be designated as authorized representatives for certification purposes only under the following conditions:
(Continued)

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(c)(1) and 7 CFR 273.22.

Amend Sections 63-407.1 and .2 to read:

63-407 WORK REGISTRATION REQUIREMENTS

63-407

.1 Persons Required to Register

The CWD shall determine which household members are required to be registered for employment. Each household member who is not exempt by Section 63-407.2 shall be registered for employment at the time of application and once every twelve months after initial registration as a condition of eligibility, unless the household is entitled to expedited service. If the household is entitled to expedited service, household members subject to work registration shall be registered as indicated in Section 63-301.5. Registrants who move out of a county shall reregister for work with the agency designated by the state to provide employment services to FS program registrants within their particular locality hereinafter referred to as the employment services agency (ESA). The ESA may be the state Employment Development Department (EDD), a county agency, or a contract agency designated by the state to serve the employment needs of registrants who have been referred by the CWD. Under the provisions of Section 63-402.611, the registration form (DE 8435 FS) may be completed by someone other than the household member required to register.

.2 Exemptions from Work Registration Exemptions and Registration in Substitute Programs

- .21 The following persons are exempt from the food stamp work registration requirement and shall not complete Form DE 8435 FS:

(a) (Continued)

(b) (Continued)

(c) A household member subject to and complying with any work requirement registered in the work incentive program (WIN) under Title IV of the Social Security Act including Work Incentive Demonstration (WIN Demo) and Greater Avenues for Independence (GAIN) programs. If the exemption claimed is questionable, the CWD shall be responsible for verifying the exemption, as required in Section 63-300.53;

(d*) (Continued)

(e*) (Continued)

(f*) (Continued)

(g*) (Continued)

(h*) (Continued)

i* A person who is registered for work under General Assistance, non-WIN Public Assistance, or Refugee Resettlement Programs. An individual so registered shall be considered as registered for work under the Food Stamp Program.

.211 Persons exempted in Section 63-407.21 shall be permitted to volunteer to participate in the Food Stamp Employment and Training (FSE and T) Program as described in Section 63-407.8.

.22 Loss of Work Registration Exemptions

.221 Persons losing exemption status due to any change in circumstances that is subject to the reporting requirements of Sections 63-505.3 or .5 (such as a loss of employment that also results in a loss of income of more than \$25 a month, or departure from the household of the sole dependent child for whom an otherwise nonexempt household member was caring) shall be registered for employment when the change is reported. The CWD shall annotate the registration changes to the person's exemption status on an existing record designated by SNSS.

(a) If the change is reported in person by the household member required to register, the person shall complete a work registration form at the time the change is reported. If this is not possible, the household member shall return the completed form to the CWD within 10 days.

(b) If the change is reported in person by a household member other than the member required to register, the person reporting the change may complete the form at the time the change is reported or deliver the form to the member required to register.

(e) If the change is reported by phone or through the mail, the CWD shall be responsible for providing the individual with a work registration form.

(1) The individual shall be responsible for returning the completed form to the CWD within 10 calendar days from either the date the form was handed to the household member reporting the change or the date the CWD mailed the form.

(2) If the individual fails to return the form, the CWD shall issue a notice of disqualification (DFA 377.10) stating that the individual or the household, if the individual is the principal work registrant as defined in Section 63-407.51, is being terminated, but that the termination can be avoided by returning the completed form.

.222 (Continued)

.223 Those persons exempt because they are registered for work under one of the programs specified in Sections 63-407.21(c) or (e) and are deemed ineligible to participate in that program due to a change in household circumstances other than failing to comply with the work registration requirements of that program shall be registered in accordance with Section 63-407.3 for work under the Food Stamp program within 10 calendar days from the date they lose their eligibility for that program. For treatment of persons who fail to comply with the work registration requirements specified in Sections 63-407.21(c), and (e), and see Section 63-407.524.

.23 Substitute Programs

Persons registered in the following programs shall be considered as registered for work under the Food Stamp Program:

o General Assistance Work Program

o Non-WIN Public Assistance (PA) Program

o Refugee Resettlement Program

- .231 Those persons registered in a substitute program as specified in Section 63-407.23, who are deemed ineligible to participate in that program due to a change in household circumstances other than failing to comply with work registration requirements of that program, shall be subject to the work registrant requirements of the Food Stamp Program in Section 63-407.4, within 10 days from the date they lose their eligibility for that program. For treatment of persons who fail to comply with the work registration requirements of these programs see Section 63-407.54.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(b)(1)(iii), (b)(2)(i), and
 273.7(k).

Renumber Section 63-407.37 to Section 63-407.83; repeal Sections 63-407.33 through .36; amend Sections 63-407.31 and .32 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.3 CWD Requirements

- .31 Upon reaching a determination that an applicant or a other members of the applicant's household is are required to be registered, the CWD shall:

- .311 Explain to the applicant the work registration and work registrant requirements in Section 63-407.4 and, if assigned to the FSE and I Program, the requirements in Section 63-407.8, his or her the rights and responsibilities, and the consequences of failure to comply.

The CWD shall provide work registration forms, DE 8435 FS, to the applicant for each household member required to register for employment, and permit the applicant to complete the form for those members in accordance with Section 63-402.611. Instructions for completing the DE 8435 FS call for mandatory social security numbers. If an individual is otherwise eligible for food stamp benefits (see Section 63-404), but cannot provide a social security number at the time of work registration, the ESA can create a pseudo-number for entry in the food stamp work registrant's file. In these cases, the CWD should annotate the DE 8435 FS before sending it to the ESA, stating the situation.

- .312 Provide a written statement of the requirements in Section 63-407.311 to each work registrant.

- .313 Provide a written statement:

- (a) at recertification, and
(b) when a previously exempt individual or new household member is required to be registered.

- .32 Household members are considered to be have registered when a completed work the registration form is annotated by the CWD on an existing record submitted to the CWD designated by SDSS.

- 33 If the registrant is a migrant or seasonal farm worker away from home base and following the migrant work stream, or if the CWD knows that the registrant would otherwise be exempt from job search (as defined in Section 63-407.814c), the CWD shall indicate this on the registration form.
- 34 Within five working days after the household has been certified, the CWD shall forward the work registration form to the ESA office having jurisdiction over the area where the registrant resides. Work registration forms shall not be forwarded to the ESA until the household is certified.
- 35 The CWD shall notify the appropriate ESA office of those work registrants who subsequently become exempt from the work registration requirements, who are no longer certified for participation in the Food Stamp Program, or who move from the ESA office's area of jurisdiction. The CWD shall also notify the ESA promptly of a change in address if the CWD becomes aware that a work registrant has moved from one location to another within the same ESA jurisdiction. The above notification shall be provided to the ESA (form to be provided by DSS) within 30 days from the date the change becomes known to the CWD.
- 36 If the CWD has required an individual to register for work and the ESA disagrees, the ESA will request in writing that the CWD reconsider its determination. The CWDs shall respond in writing to the ESA within 30 days, and their response shall be accepted by the ESA as final.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(c)(1).

Amend Section 63-407.4 to read

63-407 WORK REGISTRATION REQUIREMENTS

63-407

•4 Work Registrant Requirements

All persons registered for work under the Food Stamp Program (via Form BE 8435 FS) or under an alternate a program specified in Sections 63-407.21(c) or (e), or it shall comply with the following requirements when requested by the ESA:

- 41 Report for a job assessment interview. Comply with the requirements of the FSE and T Program, as described in Section 63-407.8, when assigned by the CWD.
- 42 (Continued)
- 43 (Continued)
- 44 (Continued)
- 45 Continue suitable employment until it is no longer considered suitable in accordance with Section 63-407.7, until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirement as provided in Section 63-407.2.
- 46 Comply with the job search requirements described in Section 63-407.8.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(e).

Amend Section 63-407.5 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

•5 Failure to Comply

•51 (Continued)

•52 The ESA shall provide notification to the CWD when it is determined by the ESA that a work registrant has failed without good cause to comply with the requirements of Section 63-407.4. Such notification shall be in writing (Form DE 8863 FS) and shall be provided within five working days of the date such information becomes known to the ESA.

•532 If When the CWD determines is informed by the ESA that a the principal work registrant has refused or failed without good cause to comply with the requirements of Section 63-407.4, the entire household shall be ineligible to participate in the Food Stamp Program for the period specified in Section 63-407.565.

•543 If the CWD is informed determines that an individual other than the principal work registrant has refused or failed without good cause to comply with the requirements of Section 63-407.4, that individual shall be ineligible to participate in the Food Stamp Program for the period specified in Section 63-407.565.

•554 If the CWD determines is informed that a household member who is registered for work under any of the alternate programs specified in Sections 63-407.21(c), or (e), or in a substitute program as specified in Section 63-407.23, has refused or failed without good cause to comply with a work registration requirement, the CWD shall determine if the requirement is comparable to the food stamp work requirements specified in Section 63-407.4.

A requirement shall be considered comparable if it is imposed in the same category of activity, as described in Section 63-407.841, and the participant's level of effort does not exceed that of the FSE and T Program component offered in the county.

Example 1 - A GAIN participant fails to comply with a basic education activity which requires attendance of 40 hours per month. The county's

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FSE and T Program consists of Job Search requiring 12 hours effort per week for two weeks. These are not comparable, as the activities are not in the same category.

Example 2 - A participant fails to comply in a General Assistance Workfare program, which requires 140 hours per month of attendance. The county's FSE and T workfare component may not require participants to work more than 120 hours per month. They are not comparable since the level of effort exceeds that of the FSE and T Program.

Example 3 - A participant fails to comply in a WIN/Demo Job Search program requiring five hours of effort per week for one month. The county's FSE and T Program offers a Job Search component which requires 12 hours per week of effort for two weeks. These are comparable programs since the category of activity is the same and the level of effort does not exceed that of the FSE and T Program.

.5541 If the CWD determines that the work registration requirement is comparable, the individual, or entire household shall be disqualified if the individual who committed the violation is the principal work registrant, shall be disqualified in accordance with Section 63-407.565. The household or individual shall be notified of the disqualification as specified in Section 63-407.546. (Continued)

.5542 If the CWD determines that the work registration requirement is not comparable, the individual or the household shall not be disqualified. However, if the noncomplying member: shall lose his/her food stamp work registration exemption under Section 63-407.21e, or e, or i and must register for work, if required to do so under Section 63-407.1.

(a) Is in a program specified in Sections 63-407.21(c) or (e), that person shall lose his/her food stamp work registration exemption and shall be

registered for work, if required in
Section 63-407.1.

(b) Is in a program specified in Section
63-407.23, that person shall be
subject to the FSE and T requirements
in Section 63-407.8.

•56 The period of disqualification for a work registrant failing to comply with the requirements of Section 63-407.4 is as follows:

•565 If the work registrant fails to comply with any requirement of Section 63-407.4, provided eligibility cannot be reestablished pursuant to Section 63-407.6, the disqualification period is two months, except as specified in •532 below:

•562 If the work registrant is the principal work registrant and fails to continue suitable employment as specified in Section 63-407.45 because of a voluntary quit without good cause, the disqualification period is three calendar months pursuant to Section 63-498.222.

•576 Within 10 days of determining that the noncompliance was without good cause in accordance with Section 63-407.587, the CWD shall provide the individual or household with a Notice of Disqualification, (DFA 377.10). Such notification shall contain a description of the act of noncompliance, the proposed period of disqualification and shall specify that the individual or household may reapply at the end of the disqualification period. Information shall also be included describing the action which can be taken to end or avoid the sanction, and procedures contained in Section 63-407.6. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6.

•5761 Each individual or household has a right to a state hearing to appeal a denial, termination or reduction of benefits due to a determination of nonexempt status, or an ESA a determination of failure to comply with the work registration or job search FSE and T Program requirements. Individuals or households can appeal the ESA

actions such as the job search category assigned, the number of job search contacts assigned, the ESA refusal to accept an action as a job search contact, exemption status, the type of requirement imposed, or CWD refusal to make a finding of good cause. If a state hearing is scheduled, the CWD shall provide sufficient advance notice to permit the availability, either in person or by phone as appropriate, of a representative of the component operator attendance of the ESA representative, if it is anticipated that such attendance will be necessary.

•587 Determining Good Cause

The ESA CWD shall be responsible for determining good cause in those instances where the work registrant has failed to comply with the requirements of Section 63-407.4.

In determining if good cause existed for failure to comply with any work registration/job search or FSE and T Program requirements, the ESA CWD shall consider the facts and circumstances, including information submitted by the household member involved and/or the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, lack of adequate child care for children who have reached age six but are under twelve years of age (see Section 63-408.4lj), the unavailability of transportation, or problems caused by inability of the work registrant to speak, read or write English.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(g)(1) and (2), (h), (k), and (m).

Amend Section 63-407.6 to read

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.6 Ending Disqualification

.61 Following the end of the two-month disqualification period for noncompliance with the work registration and/or job search FSE and T Program provisions prescribed in Sections 63-407.1 or 407.8, a disqualified individual or household may apply again to establish eligibility.

.62 If the individual or household is otherwise eligible, eligibility may be established or reestablished within a disqualification period as indicated below if the member who caused the disqualification:

*621 For those households disqualified for noncompliance with the work registration provisions, eligibility may be reestablished during the disqualification period if the household is otherwise eligible and if the member who caused the disqualification:

(a)*621 Becomes exempt in accordance with Sections 63-407.21(a), (b), (d), (f), (g), or (h).

(b)*622 Is no longer a member of the household:

(1a) (Continued)

(2b) (Continued)

(c)*623 Complies as follows:

(1) If the member was disqualified for noncompliance with the work registration provisions, the member shall register for work.

(2) If the member was disqualified for refusal without good cause to report for an interview with the ESA (after being given two opportunities to report), the household's eligibility may be reestablished during the disqualification period only if the member becomes exempt

from the work registration requirement or is no longer a member of the household.

- (3a) If the member was disqualified for refusal to respond to a request from the ESA for supplemental information regarding employment status or availability for work, the member shall comply with the request.
- (4b) If the member was disqualified for refusal to report to an employer to whom referred by the ESA, the member shall report to this employer if work is still available or to another employer to whom referred.
- (5c) If the member was disqualified for refusal to accept a bona fide offer of suitable employment to which referred by the ESA, the member shall accept this employment if still available to the participant; accept any other employment which yields earnings per week equivalent to the refused job; or accept any other employment of at least 30 hours per week, with weekly earnings equal to the federal minimum wage multiplied by 30 hours.
- (6) If the member was disqualified for refusal to continue suitable employment to which referred by the ESA officer, the member shall return to this employment, if still available to the participant; accept any other employment which yields weekly earnings equivalent to the refused job; accept any other employment of at least 30 hours per week; or accept any other employment of less than 30 hours per week but with weekly earnings equal to the federal minimum wage multiplied by 30 hours.
- (7d) If a member refused to comply with an employment and training assignment, the member shall comply with the assignment or another assignment.

The ESA shall notify the GWD in writing (DE 8863 FS) if the ESA becomes aware that the member has complied in accordance with (3), (4), (5), or (6) above. Such notification

shall normally be provided within five working days of the date the information becomes known to the ESA.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(h)(1).

Repeal Section 63-407.8 to read

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

▼8 Job Search

Persons required to register for work shall be subject to the appropriate job search requirements discussed below to the extent that these requirements are implemented within the county by the ESA. Failure to comply with the job search requirements, without good cause, shall result in the household's disqualification as established in Section 63-407.5.

▼81 Assessment Interview

▼811 Unless the ESA determined from available information that the work registrant would be exempt from actively engaging in job search based upon the criteria established in Section 63-407.814(c), work registrants may be required to report to an assessment interview with the ESA each time they register for work. The ESA shall normally schedule the interview to occur within two weeks of the date it receives the work registration form (DE 8435 FS) from the CWD.

When scheduling an assessment interview, the ESA shall send the registrant a letter informing the registrant of the date of the interview, that appearance for an interview is a condition of participation in the Food Stamp Program, and how the registrant can contact the ESA to reschedule the interview if necessary.

▼812 If the work registrant fails to appear for the first interview and has not contacted the ESA in advance to reschedule the initial interview, the ESA shall send a second letter scheduling another interview to occur within the next two weeks. This letter shall inform the registrant of the date of the rescheduled interview, explain that this is the last attempt to schedule the interview and the consequences of failing to appear for the rescheduled interview appointment without good cause, and provide procedures for contacting the ESA if the rescheduled interview cannot be attended by the work registrant for good cause.

•813 If the work registrant fails to appear for the rescheduled interview without good cause, the ESA shall notify the EWD in writing of the failure within five working days of the date of the registrant's failure to appear.

•814 After the assessment interview, the ESA will place each work registrant in one of the job search categories listed below:

a. Category I - Job ready. Those work registrants who have no apparent substantial barriers to employment.

b. Category II - Non-job ready. Those work registrants with substantial barriers to employment, e.g., medical, transportation, language, or family problems, that alone or in conjunction with adverse labor market conditions, would make them difficult to place. Transportation problems shall include the unavailability on a regular basis of either private or public transportation or the minimum financial resources necessary to obtain available public transportation. Job attached persons, e.g., those on temporary layoff or those expecting to return to work within 60 days, shall be placed in this category for 60 days from the date of initial registration. At the end of the 60-day period, job attached persons, if still unemployed, may be recategorized as appropriate.

c. Category III - Exempt. Those work registrants for whom a job search is determined to be impractical, specifically including those individuals residing an unreasonable distance from the appropriate ESA office or potential employers (a distance shall be considered unreasonable if the round trip exceeds two hours by reasonably available public or private transportation) and migrant and seasonal farmworkers away from their home base and following the migrant work stream. The determination of exempt status should be made at the time the work registration form is received from the EWD to preclude the

need of such persons to travel to the ESA office for an assessment interview unless it is impossible to determine exempt status from the form for a particular registrant.

•815 After placing the work registrant in the appropriate job search category, the ESA shall provide to each work registrant written notification regarding his/her job search requirements, procedures to be followed, and the consequences of failure to comply.

•82 Requirements

•821 If required to do so by the ESA, persons classified in Category I must comply with the job search requirements discussed below for a period of eight weeks each twelve months when they are initially certified, when they lose a work registration exemption, or when they register for work upon reentering the Food Stamp Program after a period of absence whichever occurs sooner.

a. The ESA may require either that the eight week period be one continuous period, or that it be divided into two separate job search periods that total eight weeks. For example, the ESA office might require a registrant to undertake two four-week job searches, with the second period following six months after the first. The ESA may schedule the job search period(s) at the time(s) it determines the job search would be most effective, taking into account job market conditions and the registrant's skills and experience.

b. The ESA may shorten or suspend the job search period if economic or personal circumstances warrant. The ESA can suspend a job search period and then resume it later if factory closings or other circumstance make it likely that the job search period would be more productive at a subsequent time.

c. Registrants who remain continuously on the program are not subject to a new job search requirement at the time of semiannual routine reregistration.

d. Registrants subject to the job search requirements must take the following actions:

(1) Contact, as required by the ESA, up to twenty-four prospective employers during the eight-week period. If the job search period is shortened, the number of required job contacts shall be reduced on a pro rata basis to the maximum extent practicable. A referral by the ESA to an employer shall be considered a job contact for Food Stamp Program purposes, provided the registrant presents himself/herself to the employer as described in Section 63-407.84.

(2) Twice during the eight-week job search period, report at a prescheduled time to the ESA on the result of all job contacts. If the eight-week job search activity is divided into two separate periods, the ESA may require the registrant to report once during each period of job search activity. Job contacts shall be reported in written form as discussed in Section 63-407.85.

822 Work registrants classified in Category II will not be assigned any specific job search activity. Job attached persons who have not returned to their jobs or otherwise become exempt from the work registration requirement may be called in for reassessment at the end of sixty days. Other persons may be called in by the ESA during the 12-month registration period. During subsequent interviews, job files will be reviewed for potential referrals, and the job search categorization of such individuals will be reassessed.

823 Work registrants classified in Category III will not be required to fulfill job search requirements until such time as Category III classification is no longer applicable and the work registrant is reclassified into an active job search category.

83 Follow-up Activities

▼831 Scheduling Follow-up Interviews

- a. At the time of the initial assessment interview with the work registrant, the ESA shall establish a schedule for two follow-up interviews over the job search period for Category I registrants. The ESA may reduce the number of follow-up interviews to one for Category I registrants when the job search period and number of job contacts are reduced. Such schedules shall be documented and provided in written form to the work registrant.
- b. Category II registrants shall be informed that they shall be contacted either within the 12-month registration period or in 60 days if they are job attached.
- c. If the work registrant fails to report for the follow-up interview for any reason and has not contacted the ESA in advance to reschedule the interview, the ESA shall contact the work registrant by letter to schedule another interview within the next two weeks. The letter shall inform the registrant of the date of the rescheduled interview, explain to the registrant the consequences of failing to appear for the rescheduled interview without good cause, and provide procedures for contacting the ESA if the rescheduled interview cannot be attended by the work registrant for good cause.
- d. If the work registrant fails to report to the rescheduled interview without good cause, the ESA shall notify the CWB in writing of the failure within five working days of the date of the registrant's failure to report.

▼832 At the time of each follow-up interview, the ESA shall review the job contacts made by the work registrant, review job listings for potential referrals, and assist the work registrant in establishing his or her future plans for seeking employment.

•833 The ESA shall notify the CWD in writing (DE 8863 FS) when a work registrant obtains employment. Such notification shall be provided within five working days of the date the information becomes known to the ESA.

•84 Job Contact

•841 To qualify as a job contact, the following two conditions must be met:

a. The work registrant must present himself or herself to a prospective employer as available for work and

b. The prospective employer must ordinarily employ persons in areas of work that meet the suitability requirements discussed in Section 63-407.7 and for which the work registrant is reasonably qualified by means of experience, training or ability.

•842 Depending upon the position being sought, the job contact requirement may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the ESA to be generally accepted practice. The work registrant cannot contact the same employer in subsequent weeks unless the initial contact indicated that vacancies in suitable job positions may soon exist.

•85 Reporting Job Contacts

•851 Job contacts shall be reported in writing in a manner prescribed by the ESA. At the time of the initial interview with the ESA, the work registrant shall be told about the manner of reporting. While such reporting will not require the employer's written confirmation of the job contact, the work registrant shall be required to sign the written documentation to attest to its validity. The written report shall be submitted to the ESA at the time of the work registrant's follow-up interviews.

•852 The work registrant shall be responsible for providing the ESA, upon reasonable request, any additional information regarding job contacts.

•853 At the end of the job search period, the ESA shall determine if the work registrant has completed the assigned number of job contacts.

a. If the work registrant was assigned a continuous job search period of less than eight weeks, the registrant shall have two additional weeks to complete any missed contacts.

b. If the work registrant was assigned a single continuous eight-week job search period, no additional time shall be allowed unless the ESA fails to accept, for reasons such as suitability or manner of contact, a job contact(s) reported by the registrant. In such instances, the work registrant shall be allowed an additional two weeks to make up the disallowed contact(s).

c. Persons failing to complete the required number of job contacts with good cause shall be excused from completion of the job search requirements.

•86 ESA Review

If a work registrant believes that an ESA determination is improper, review of the determination may be obtained from a designated ESA official not involved in the original determination. For example, if the work registrant believes he or she has been improperly assigned to a job search category or assigned an improper number of job search contacts, or that an action which should have been counted as a contact was not, a review may be obtained. This would also apply to the ESA determination that noncompliance was not for good cause.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code and 7 CFR 273.7.

Renumber Section 63-407.37 to Section 63-407.83 and adopt Section 63-407.8 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.8 Food Stamp Employment and Training Program

.81 CWD Screening

The CWD shall screen each work registrant to determine whether or not the registrant will participate or be deferred from the FSE and T Program. This requirement shall not apply in counties that are totally geographically excluded as allowed in Section 63-407.842.

.811 The following registrants shall be deferred from mandatory participation until the CWD determines that the situation precluding participation no longer exists.

(a) A person who resides in a federally approved geographically excluded area.

(b) A person who participates in a program described in Section 63-407.23 that has participation requirements exceeding those contained in the FSE and T Program.

(c) A person who is unable to participate due to personal circumstances. This shall include, but not be limited to persons who:

(1) Lack child care;

(2) Lack transportation to an FSE and T Program site;

(3) Live an unreasonable distance from the FSE and T Program site;

(4) Have a severe family crisis;

(5) Are temporarily laid off from a job and expected to return to work within 60 days;

(6) Are involved in legal difficulties (such as court mandated appearances) which preclude participation;

(7) Have a temporary illness or disability; or

(8) Are non-English speaking, to the extent that the CWD does not have services available in the individual's language or there is little or no job market in the community for non-English speaking individuals.

.812 Individual deferrals shall be reevaluated no later than at each recertification.

.813 Persons who are deferred shall be permitted to volunteer to participate in the FSE and T Program.

.814 Persons who are registered for work in accordance with Section 63-407.1 and who are not deferred under Section 63-407.811 are considered mandatory participants.

.82 Referral to FSE and T Program

The CWD shall refer mandatory participants to an FSE and T component. The CWD shall be permitted to refer applicants and volunteers.

.821 Upon entry into each component the registrant shall be told, either orally or in writing, of the component requirements, what will constitute noncompliance, and the sanctions for noncompliance.

.83 Participant Reimbursement

.837 The CWD shall reimburse participants, including volunteers and applicants, for transportation, child care, or other costs that are reasonably necessary and directly related to participation up to \$25.00 per participant per month.

.831 If a method has been approved in the State Plan for the CWD to provide allowances that reflect approximate costs rather than reimbursements, participants shall be provided an opportunity to

claim actual expenses which exceed the CWD standard, up to \$25.00.

•84 Program Requirements

•841 Program Components

In accordance with a federally approved state plan, counties shall provide any one or more of the following components. The following components shall be allowed to be provided for applicants or recipients:

(a) Job Club/Job Search

- (1) Job Club (job search workshop), which consists of group training sessions in job finding skills, job interviewing skills, understanding employer expectations and requirements, and in enhancing self-esteem, self-image, and confidence.
- (2) Supervised job search, which consists of an organized method of seeking work, such as access to phone banks, job orders, and direct referrals to employers.
- (3) Unsupervised job search, which consists of independent efforts by a registrant to look for employment and follow up interviews by staff to determine the adequacy of the job search.

(b) Work Components

- (1) Workfare, which consists of a nonsalaried assignment with a public or private nonprofit agency that provides the registrant an opportunity to develop basic work habits or to practice existing skills.

(a) Individuals assigned to workfare shall be provided the same benefits and working

conditions provided to employees performing comparable work for comparable hours.

(b) A workfare assignment cannot result in the displacement of employed individuals or in the reduction of employment opportunities, such as substituting a workfare person in a vacant position.

(2) OJT/Work Experience, which consists of an assignment to provide work experience or training or both to enable participants to move promptly into regular public or private employment. Such assignment shall:

(a) Be limited to projects that serve a useful public purpose in fields such as health, social services, environmental protection, etc.

(b) Not replace a regular employee who is not participating in the employment and training program.

(c) Provide the same benefits and working conditions that are provided at the job site to employees performing comparable work.

(c) Training

Vocational training which consists of a project, program or experiment, such as supported work program, or a Job Training Partnership Act program (JTPA) or state or local program aimed at accomplishing the purpose of the FSE and T Program.

•842 County Administration

(a) Counties shall submit a plan in accordance with guidelines specified by SDSS. Partial or total geographical exclusion may be

requested if an FSE and T Program would be impracticable due to such factors as the availability of work opportunities and the cost-effectiveness of the requirements. Counties requesting geographical exclusion shall submit sufficient economic and demographic data to justify such exclusion.

County plan amendments shall be submitted to SDSS for approval 60 days prior to the effective date of any proposed changes.

(b) The CWD shall be permitted to operate or contract with another organization to operate the FSE and T Program or any component.

(c) Counties that operate their own programs shall be permitted to establish independent FSE and T components and/or use existing components of WIN/Demo or GAIN, or those offered under other programs such as Refugee Employment Services, or General Assistance. If existing components are used, the following conditions shall be met:

(1) Participation and sanction requirements are consistent with Sections 63-407.85 and .86.

(2) The components are described in an approved county plan.

(3) Activities associated with the delivery of services to FSE and T participants are time studied and claimed to the FSE and T Program in accordance with applicable time study and claiming instructions issued by SDSS.

.843 Data Collection

The CWD shall collect data in accordance with SDSS statistical reporting requirements. (See Sections 26-010 and 26-020.) Those counties which are totally geographically excluded shall also collect the data described in Sections 63-407.843(a) and

(g)• The data shall include, but not be limited to the following:

- (a) Number of newly work registered individuals.
- (b) Number of work registrants deferred from participation, separated by reason for deferral.
- (c) Number of individuals granted geographical exemption.
- (d) Number of volunteers who begin participating, by component.
- (e) Number of mandatory participants who begin, by component.
- (f) Number of work registrants sent a notice of adverse action and applicants denied certification for failure to comply with the program requirements.
- (g) Number of work registrants during the October 1 through October 31 period on the October through December report.

•85 Participation Requirements

- 851 The number of months and number of successive components in which participation is required shall be determined by the county as long as the minimum and maximum participation requirements of the FSE and T Program are met. Participation requirements could vary among participants.
- 852 Participation requirements shall not be imposed if they would delay the determination of eligibility for or issuance of benefits to any household otherwise eligible.
- 853 The minimum level of effort by participants shall be comparable to spending at least 12 hours a month for two months making job contacts.

In a workfare or work experience component, the number of hours may be less if the household's benefit divided by the minimum wage is less than this amount.

HANDBOOK

.854 For a job search component as described in Section 63-407.841(a), the participation requirement shall be permitted to begin at application for an initial period of up to eight consecutive weeks, and continue for an additional period of up to eight weeks during 12 consecutive months. The 12-consecutive-month period shall be permitted to begin at any time following the close of the initial eight-week period.

.855 Participation requirements in a work component, as described in Section 63-407.841(b), imposed collectively on members of a household each month shall be limited to the number of hours equal to the household's allotment for that month divided by the higher of the applicable state or federal minimum wage.

.856 The maximum hours of participation imposed on each individual shall not exceed 120 hours per month, including nonwork and work component hours, optional Food Stamp Workfare Program hours, and hours worked for compensation, in cash or in kind.

.857 The hours of participation or work of a volunteer shall not exceed the hours required of FSE and T Program mandatory participants.

.86 Failure to Comply

.861 Individuals or households who are participants in the FSE and T Program, and who refuse or fail without good cause to comply with any of the requirements of that program, shall be subject to the provisions of Section 63-407.5.

.862 Individuals or households who are disqualified for failure to comply with the requirements of the FSE and T Program shall be notified in accordance with the provisions of Section 63-407.56.

.863 Voluntary participants shall not be disqualified for failure to comply with FSE and T Program requirements.

.87 Ending Disqualification

Individuals or households who have been disqualified for noncompliance with the requirements of the FSE and T Program shall be permitted to establish or reestablish

eligibility in accordance with Sections 63-407.61 and .62.

.88 Determining Good Cause

Good cause shall be determined in accordance with the provisions in Section 63-407.57.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(c)(2), (c)(4), and (c)(6); 7 CFR 273.7(d)(1)(i)(E), (d)(1)(ii)(A) and (B), and (d)(3); 7 CFR 273.7(f)(1), (f)(2)(ii) and (iii), (f)(3)(i) and (ii), (f)(4)(ii) and (iv); 7 CFR 273.7(g)(1); (h)(1); (k)(1); (m); (o); and (p).

Amend Section 63-407.9 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.9 Optional Food Stamp Employment Programs

.91 In addition to the FSE and T Program, operated in accordance with Section 63-407.8, cCounties shall be permitted to operate the Food Stamp Workfare Program in accordance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.22.

.92 Counties shall obtain state approval to operate the Optional Food Stamp Applicant Job Search Program in compliance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.7.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7.

Amend Sections 63-408.31 and .32 to read:

63-408 VOLUNTARY QUIT (Continued)

63-408

.3 Exemptions from voluntary quit provisions.

The following persons are exempt from voluntary quit provisions:

- .31 Persons exempt from the full-time work registration provisions as stated in Sections 63-407.21, except for persons registered in an alternate program as specified in Section 63-407.21(i).
- .32 Strikers, as defined in Section 63-402.98, except for an employee of the federal, state, or local government, who has been dismissed because of his/her participation in a strike against such government.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(n).

Amend Section 63-504.361(c) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

•3 Monthly Reporting (Continued)

•36 Termination (Continued)

- 361 The CWD shall terminate a monthly reporting household's participation in the Food Stamp Program if the household: (Continued)

(c) fails to comply with a nonfinancial eligibility requirement, such as registering for employment the work registration requirements. The household shall be notified in accordance with Section 63-504.261.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(g)(1).

FILED

In the office of the Secretary of State
of the State of California

SEP 25 1987

At 11:49 o'clock

MADEY ELL Secretary of State


By *[Signature]*
Deputy Secretary of State

OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 87-0918-04E



LINDA HURDLE STOCKDALE BREWER
DIRECTOR

9/25/87

Date